

**PETITION FOR
A WRIT OF
CERTIORARI**

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Sup. Ct.

IN THE
Supreme Court of the United States

OCTOBER TERM, 1946.

No. 378

ROY GRANT, JR., DOING BUSINESS AS NO SLEET WIND-
SHIELD HEATER COMPANY,

*Plaintiff-Appellant,
Petitioner,*

vs.

GENERAL MOTORS CORPORATION, A FOREIGN CORPO-
RATION, GENERAL MOTORS SALES CORPORA-
TION, A DISSOLVED FOREIGN CORPORATION, WHEELER,
WHEELER AND WHEELER, A FIRM, WARREN G.
WHEELER AND S. L. WHEELER, LECHER,
MICHAEL, SPOHN AND BEST, A FIRM, JOHN W.
MICHAEL AND MILES HENNINGER, MORSELL AND
MORSELL, A FIRM, AND ARTHUR L. MORSELL, ROBB
AND ROBB, A FIRM, AND J. F. ROBB, AND ELWIN
A. ANDRUS,

Defendants,

GENERAL MOTORS CORPORATION, A FOREIGN COR-
PORATION, GENERAL MOTORS SALES CORPORA-
TION, A DISSOLVED FOREIGN CORPORATION,

*Defendants-Appellees,
Respondents.*

**PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH
CIRCUIT.**

ROY GRANT, JR.,
Post Office Box 1695,
Milwaukee 1, Wisconsin,
Petitioner.

SUBJECT INDEX.

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PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE SEVENTH CIRCUIT.

To the Honorable,

The Chief Justice and Associate Justices of the Supreme
Court of the United States:

Your petitioner Roy Grant, Jr., respectfully prays for a

writ of certiorari herein to review a certain final decision of the Circuit Court of Appeals for the Seventh Circuit, being the Appellate Court of the United States District Court for the Eastern District of Wisconsin, in the above entitled cause and your petitioner represents that the opinion and decision of said Appellate Court were reduced and filed on March 12, 1946 (Tr. 382; or, App. "D" herein); that on June 11, 1946 the time for filing a petition for certiorari in this cause was extended to and including August 11, 1946 by order of the Honorable Wiley Rutledge, Associate Justice of this Supreme Court (Tr. 430; or, App. "E" herein).

SUMMARY STATEMENT OF MATTERS INVOLVED.

Your petitioner, in respectfully petitioning this Supreme Court of the United States, the highest court of last resort, to duly exercise the discretion and supervisory powers reposed in this Court, further represents that he feels very, very deep convictions in connection with inwardly awareness of fault with respect to,—

- (a) the misfeasance, or in another character, the undue conjecture or speculation in the conscience of the courts before which this cause has been; to all of which, in the procedural stage of this action the misfeasance is illegally harmful to this litigant;
- (b) to the unprincipled malfeasance and/or lack of adherence to fidelity in the interests of truth and justice by certain officers of the Court adversely interested in this cause; and
- (c) to the unwarranted vexatious summary opinions and/or judicial acts of dismissal premised on the complete record.

The complete record readily exposes, to clear mental view, grossly aggravating-assaults, of unfairness and injustice, of intemperate, scandalous, hot-fanatical, professional and partisan allegations, of the Corporate defendants' attorneys and another, the trial judge, (Tr. 53, 54, 56, 57, 59, 60, 61, 65, 66, 144, 149, 152, 153, 173, 227, 230), in regard to the adversely alleged unprofessional pleadings of your petitioner all of which reflects strong unethical prejudice against this litigant and moves, serenely with lack of concern, against the integrity and public reputation of judicial proceedings, as would reasonably appeal to

this Court's discretion and supervisory powers and instantly alert this Court to correct the clear archaic judicial procedural abuses, designedly substituted for Due Process of Law and Equal Protection of the Law for the sinister purpose, of abridging the substantive law of inalienable Civil rights and transcending the proper administration of justice.

The printed record on file in this court has been compiled, and printed at the instigation of your petitioner and a certification of fairness of the printed record, has been made by the petitioner; and the certification offered for due filing by the Honorable Clerk of this court (Tr.).

Otherwise, since February 14, 1946, the typewritten record remains unprinted although either the clerk of the Appellate Court or the Honorable Clerk of this court, have been fully provided with the funds estimated for printing and other probable expenses.

For determination by this Court with respect to Law of the Case, it seems proper and necessary to set out briefly, very briefly, several, not all, of the pertinent parts of the propositions, and arguments offered for consideration before the trial court in connection with the issues pleaded.

On May 12, 1945, your petitioner filed his original complaint in the Office of the Clerk of the Trial Court. The complaint displays the averments of the claims in numbered paragraphs, the contents of each of which are limited as far as practicable to a statement of a single set of circumstances.

The corporate defendants, General Motors Corporation and its wholly owned sales subsidiary are charged with infringement and violation of the Anti-Trust Laws and

Clayton Act all to the damage of the complainant. Other material averments of the proximate cause of other damage to the plaintiff to which the complainant intended to offer evidence are clearly set out.

Other defendants, certain law firms and/or individual partners or persons thereof are charged, in clear language, if given a reasonable interpretation, with malfeasance, moral turpitude, gross negligence and dereliction and breaches of duties, misleading the complainant and other unfairness involving violations of attorney's oath, and with misrepresentations regarding matters of law by attorneys professing knowledge thereof, thereby obtaining unconscionable advantage over the complainant not in a position to become informed, all to the advantage of the corporate defendants allegedly infringing on the Patent rights of the complainant, and to the disadvantage and denial of Civil Rights of the plaintiff, and a conspiracy to interfere with plaintiff's civil rights.

For example, but not all,—

Re defendant S. L. Wheeler of the firm Wheeler, Wheeler and Wheeler,—

After time had run out on every other subterfuge employed to delay or deny adjudication of the plaintiff's patent, S. L. Wheeler resorted to contemptuous remarks with respect to the President of the United States and with respect to the Honorable Justices of the Supreme Court of the United States, and other Judicial appointees of the President.

Page 17 of the Transcript of Proceedings, dated July 2, 1945 contains the following remarks taken from the office letter of defendant S. L. Wheeler,—

"1. The New Deal administration has persistently ignored the value of patents to the small manufacturer and the New Deal judges have taken the lead in causing courts to upset patents which were duly granted

by the Patent Office and would otherwise be held valid but for the extent to which the Supreme Court has set a new standard of invention."

The Court: Who signed that letter?

Mr. Grant: Lawrence Wheeler. . . .

Page 18, Transcript, same.

He (Wheeler) continues on: "You have some chance of sustaining the Birely patent in court but, in my judgment, your chance is quite remote in view of the present attitude of the Roosevelt appointees on the Supreme Bench."

Page 19, same.

. . . (Wheeler) "The fact that a patent is about the only weapon with which a small manufacturer can contest a financial monopoly is one which has persistently been overlooked by the present administration. Whether they are sincere or whether they won't see this because they do not want to, I do not know."

. . . The Court: What is the date of the letter of Mr. Wheeler criticizing Federal—

Page 20.

Mr. Grant: March 7, 1944. I was quite surprised because when I looked at his motion he said that this was his favorite court that he would appear before. I wasn't aware of that until I read that statement in his motion. I can assure you that what was printed is a lot less than what I have heard in conversation.

Re defendant Arthur L. Morsell of the firm Morsell and Morsell,—

The imperfect consideration is set out e.g.,

"... to warrant us in handling this case on 'any' basis" (Tr. 35).

Re defendant, Elwin A. Andrus,—

Excerpt From Andrus Affidavit.

"It appeared that in view of the running of the Statute of Limitations, the amount of recovery possible was being reduced with each day passed and

plaintiff expressed the desire to bring immediate suit against all of the major automobile companies for infringement" (Tr. 42).

Re defendants, Michael and Henninger of the firm Lecher, Michael, Spohn & Best,—

A reading of the record of plaintiff's affidavit (Tr. 69, 70, 71), plaintiff's memorandum (75, 76, 77, 78, 79, 80, 81) and reading the certified transcript of proceedings, dated July 2, 1945 on file in this Court at pages 45, the last paragraph continuing to the top of page 46, and the last paragraph of page 51 and page 52 the words are fully descriptive of the malfeasance and violation of Civil Rights foisted by the attorney defendants upon the plaintiff.

The corruption of ideals, of professional ethics, the vile disgracing, defaming, scandalization of the President of the United States, of the Justices of the Supreme Court of the United States, the discriminating defamation of the dignity of the Supreme Court, and of other lesser judicial appointees of the President, by otherwise thought esteemed reputable officers of the Court, exiles many other disparaging remarks of record into much lessor importance and convincingly establishes the "Undue Influence" impressed on a distressed client to which, certain few faceless, unprincipled, predatory officers of the Court would materialistically descend with gratification from presumptive rank and dignity under a confidential fiduciary relation, thus reposed in them, to give aid and comfort to the Corporate defendants to the unfair advantage of the client.

Specific stress was placed on undue influence in plaintiff's argument before the trial court and at page 45 of the transcript of proceedings, dated July 2, 1945 the following paragraph appears. The paragraph carries over to the first 4 lines of page 46, and is set out here verbatim:—

"Now, there are other implications I understand

unless you know what to put in a Complaint. There are many rights that should be maintained if they are properly pleaded. It was quite an escape. What hand reaches out and controls these attorneys and what is in this hand that reaches out I don't know, but I can't understand. Here I am a local citizen, I am a white person, I am 21; I know no reason why I can't appear before your court. It is a duty of attorneys to take and assist a layman. They have cited no reason why the object to me, and yet every conceivable thing from abusing the courts and delaying Grant has been put into this picture to let a day go by, as Mr. Andrus so well pleaded in his affidavit, that laches were recognized; that time, every day that went by would minimize the recovery, and that is my point. Chopping off these days. It took me five months, your honor, to draft that Bill of Complaint."

Further, it is the severe conviction and thus strong contention of your petitioner that the trial judge lent his judicial dictum to biased undue influence in the conduct of the hearings and to his fellow fraternity travelers of the Milwaukee Patent Law Association with the pronounced adjudication expressed by writing over his signature, to wit,—

"However, as stated heretofore, the plaintiff is a layman and should not be held to the same fine choice of language that one skilled in the law would use" (Tr. 173).

The declared fine choice of language represented by words used by the defendant attorneys would appear to be superiorly endorsed by the court and supported only by the true meaning of any of the words used by the defendant attorneys to convey ideas. Good faith and common sense are not to confound, ruin or corrupt the words of the defendant attorneys.

However, some reasonable normal interpretation should

be placed on the following excerpts taken from the plaintiff's affidavit re defendant Andrus:—

"The discussion also included a review of repressive conditions experienced by plaintiff in the conduct of his business with respect to unfair trade practices prohibited under the Anti Trust Laws and Clayton Act of the United States Code and said practices maintained by defendant General Motors Corporation and General Motors Sales Corporation. Conclusions reached with respect to said unfair trade practices were favorable and the opinion so expressed by defendant, with the defendant further advising plaintiff proof could be further established by using as a witness a 'broken-down' country dealer who had an ax to grind."

"At approximately 10:30 P. M. defendant advised plaintiff he was satisfied a good basis for an infringement and unfair competition suit existed and defendant would go to his office the following morning, Saturday, January 27, 1945 and reply in detail to the conditions plaintiff presented."

"From approximately 10:30 P. M. to a few minutes after 12:00 midnight defendant appeared to be in no evident mood to leave and the time was spent with the defendant recalling many details of his experiences and impressing upon the plaintiff that even though a patent was valid justice many times was hollow and a mockery as procedural difficulties under the Rules of Civil Procedure were 'skeletons in the closet' defeating the real issue of patent infringement and therein, only supposedly, the real course of action was before the court."

"When plaintiff replied, that to the layman the viewpoints expressed were interpreted as a reproach to law, to the honor of the court and to the Judges and a mockery of Justice, a further comment suggested 'such skeletons' have caused more than one inventor of prime inventions to be denied his legal rights to monies which the invention produced and that defendant knew

from past experiences in patent cases of similar moment, large corporate wealth did spend,

- (a) over \$10,000 to defeat the true cause of action by interposing procedure difficulties;
- (b) and in excess of \$250,000.00, a quarter of a million dollars, to defend suits of infringement of prime inventions which they did not own or could not destroy or overcome with either the skill of their legal counsel or great research laboratories." (Tr. 85, 86.)

All defendant attorneys (the Robbs excepted, who were not served by the U. S. Marshal) filed Motions to Dismiss. The corporate defendants also filed a Motion to Dismiss.

It would seem the rule is perfectly well settled that a motion to dismiss should be denied unless under no possible proof could likelihood of the plaintiff's "verified" allegations of the complaint be shown.

It would also seem the rule is perfectly well settled that the submission of anything but a real controversy to the court is a judicial fraud.

Now, treating with the express verified declarations of the complaint it seems highly proper in the light of the two rules hereinbefore preceding to examine the fine choice of language of the defendant attorneys in their Motion to Dismiss and memorandum on file, to (at least, if nothing more) observe a hint or intimation of the essential character of the "verified" declarations of the complaint of record.

Defendants Morsell and Morsell, and Arthur L. Morsell, Chairman of the "Ethics and Grievances" committee of the Milwaukee Patent Law Association, 1944-1945, was the first defendant attorney to file a Motion to Dismiss. The copy of the Motion, served on the plaintiff, is fabricated with the memorandum in support positioned as the top paper. The fine choice of this attorney's language, superiorly endorsed and supported by the trial judge, in

the very first two sentences of the memorandum declares, the following:

"The complaint in this case charges General Motors Corporation and General Motors Sales Corporation with infringement of a certain patent allegedly assigned to plaintiff and relating to a windshield cleaner. Other charges are also made against General Motors." (Tr. 22.)

Defendant, Elwin A. Andrus, attorney, and active member of the Milwaukee Patent Law Association, 1944-1945, and past President, 1937-1938, in his fine choice of language, superiorly endorsed and supported by the trial judge, asserts in paragraph 2 of his memorandum in support of his Motion to Dismiss, as follows:

"The complaint is one for patent infringement against General Motors Corporation and General Motors Sales Corporation and does not clearly define any claim against this defendant." (Tr. 44.)

Defendants, Wheelers, attorneys, and active members of the Milwaukee Patent Law Association, 1944-1945, in their fine choice of language, superiorly endorsed and supported by the trial judge, over the signature of S. L. Wheeler, a member of the Board of Directors and Past President, 1935-1936, of the herein said association, assert, in their Brief in support of Motion, paragraph 1, item 1, as follows:

"1. By express statement of the complaint and its prayer for relief, the complaint purports to be based on the patent laws and to seek relief against infringement." (Tr. 49.)

The Corporate defendants General Motors Corporation and General Motors Sales Corporation appeared generally, through the firm of attorneys, Lines, Spooner and Quarles, represented by Louis Quarles, attorney, and David A. Fox, attorney and generally alleged son-in-law of attorney Louis Quarles, and presumably another person, indistinctly identified, by writing, as counsel.

Louis Quarles and David A. Fox, attorneys, and active members of the Milwaukee Patent Law Association, 1944-1945, and a probable certain, yet, indistinct person of Counsel, in their fine choice of language, superiorly endorsed and supported by the trial judge, over the signature of Louis Quarles and David A. Fox, (Louis Quarles of all fantasies a member of the Ethics and Grievances committee, 1944-1945, and Past President, 1934-1935, of the herein said association), assert, as follows:

Re: The Corporate defendants' attorneys' Motion to Dismiss (Tr. 52),

Excerpts,—

“(a) With respect to the allegations relative to plaintiff's alleged damage *because of violations by the corporate defendants, General Motors Corporation and General Motors Sales Corporation, of the Anti-Trust Laws, . . .*” (Tr. 52.) (Italics Supplied.)

“(b) That the allegations with respect to asserted violations of the ‘United States Criminal Code’, the ‘Rules of Practice of the United States Patent Office’, and the ‘Compiled Laws of Michigan 1929’ and the ‘Wisconsin Statutes’, by the individual (and their firms) defendants, . . .” (Tr. 53.)

“6. . . .

(a) The two corporate defendants, General Motors Corporation and General Motors Sales Corporation, *are charged with infringement of a patent and with violating the Anti-Trust Laws to plaintiff's damage.*” (Tr. 54.) (Italics Supplied.)

“(b) The other defendants, certain law firms and the individual partners thereof, all of whom are former attorneys for plaintiff or the patentee of patent in suit No. 1,630,921 are charged, either separately or jointly with mal-practice, and violating the ‘Criminal Code of the United States’, the ‘United States Patent Laws’, the ‘Rules of Practice of the United States Patent Office’, the ‘Compiled Laws of Michigan, 1929’ and the ‘Wisconsin Statutes’.” (Tr. 54.)

Re: The Corporate defendants' attorneys' memorandum in support of their Motion to Dismiss, declare,—

Excerpts,—

"The complaint, . . . seems to attempt to charge several causes of action against the two corporate defendants, three law firms and the individual partners of the latter. *These attorneys* seem to have been former attorneys either of plaintiff or of the patentee of the patent in suit. *They are charged with various villainies* among which is *the charge* that they gave plaintiff poor service in that *they failed to bring actions for infringement of the patent in suit* (Complaint par. 6 for instance)." (Tr. 56.) (Italics Supplied.)

"Paragraph 3 of the complaint seems to give some indication of what is in the plaintiff's mind in bringing this action. We shall start with it and try to give the Court some idea of what the complaint seems to allege. It is as follows:

" 'The Jurisdiction is founded on the existence (sic.) of the fact that this is a civil suit for accounting and profits and damages brought under the Patent Laws of the United States, and for three-fold damages for injuries to plaintiff's business by reason of Monopoly and Combinations violations forbidden in the Anti-Trust Laws, and violations for conspiracy and fraud of the United States Criminal Code, and of violations of the Compiled Laws of Michigan 1929, and of violations of the Wisconsin Statutes.' " (Tr. 56.)

"The charge of infringement is directed against the corporate defendants alone . . ." (Tr. 57.) (Italics Supplied.)

"In addition, *the plaintiff alleges damages* because of violation by the two corporate defendants of the Clayton Act . . ." (Tr. 57.) (Italics Supplied.)

"Paragraph 27 returns to plaintiff's attorney Warren G. Wheeler and charges:

(a) 'the forced implied contingent fee contract said to be in effect by the said defendant attorney is unfair';

(b) the 'ultimate facts of plaintiff association with said attorney defendant (Warren G. Wheeler) constitutes breaches of duties and unprofessional conduct to said plaintiff after establishment of a fiduciary relation';—what these 'breaches of duties' are is not set forth other than in paragraph 6, near the end on page 9, where Warren G. Wheeler is included in those who caused the delay so that plaintiff's patent rights 'would not be tried or judicially heard.'

(c) that said Wheeler, 'on or before January 30, 1941 entered into a conspiracy with one said Charles T. Knapp and L. E. Pitner to confuse plaintiff and destroy plaintiff's Patent Contract rights';—who Knapp and Pitner are and what they have to do with this action does not further appear.

(d) That said Wheeler 'did obtain monies from other than his principal plaintiff client, and all with intent to fraudulently act injuriously against and with special damage to his principal plaintiff client and unlawfully, to the benefit of said attorney Warren G. Wheeler';— what this means does not further appear from the complaint" (Tr. 60, 61).

"... None of the acts of the corporate defendants are alleged to have any connection with the other defendants. An attempt is made to assert claims of patent infringement, damage by reason of violation of the anti-trust laws and fraud against the corporate defendants. None of these alleged acts is charged against any of the other defendants. The other defendants, who are former attorneys of plaintiff or the patentee of the patent in suit, are charged with conspiracy, failure to press infringement suits and other acts of mal-practice. No allegation is made which connects the corporate defendants with any of these acts charged against the other defendants" (Tr. 62).

"... the complaint which seeks damages for alleged violation of the anti-trust laws by General Motors

Corporation and General Motors Sales Corporation . . ." (Tr. 62).

"This charge is contained in paragraph numbered 11 . . ." (Tr. 63).

"D. ALLEGED FRAUD OF EMPLOYEES OF DEFENDANT, GENERAL MOTORS CORPORATION, IMMATERIAL AND IRRELEVANT."

Paragraphs 24, 25 and 26 should be stricken as irrelevant and immaterial. Paragraph 24 sets forth that Louis N. Spencer was a patent attorney for General Motors Corporation and is the patentee of Patent No. 1,694,757 (not in suit here); that LaRue W. Patee is an employee of General Motors Corporation and before whom said Spencer made a "false" oath to his said patent. Paragraph 25 sets forth "conspiracy, fraud and forgery" because said Spencer and Patee "did cause subsequently the records of the United States Government in the Patent Office to be false as falsified by said employees of defendant General Motors Corporation" because of "the false recording of an imaginary, but supposedly, existing oath reliance was placed by the examining staff and The Commissioner of Patents" to plaintiff's detriment. Paragraph 26 sets forth that those employees filed a false assignment of said Spencer patent to General Motors Corporation and thereby plaintiff was damaged (Tr. 65).

Hearing on the treatment of the complaint and the several defendants Motions to Dismiss came on in the trial court, July 2, 1945.

It is submitted that only the reading of the certified Transcript of Proceedings, dated July 2, 1945, and now on file in this court, would suffice rather than a restatement now, to instruct better any proper interested adjudicator with respect to,—

1. The almost complete self-imposed blindness and arbitrary desertion of fidelity of the plaintiff's cause by the, then, plaintiff's attorney of record, although the plaintiff had paid in full the demand of the attorney, e.g., \$150.00 (Tr. 68).
2. The kangaroo practices foisted upon the plaintiff, *propria persona*, when presenting his arguments, before the court, which practices or conduct of the court directing the plaintiff's argument from one defendant to another defendant without completion of any respective presentation, disregards, perverts and prejudicially moves against any full, fair, reasonable, intelligent setting forth of the plaintiff's argument.

The case presents an unusual situation, (possibly not to the certain defendant attorneys), yet, in your petitioner's view, strongly urged, it is abundantly clear, the defendants, either attorneys or corporate, in addition to the trial judge, have not been misled to any "true" prejudice by the Original Complaint on file, providing reasonable interpretation is given to the fine choice of language, superiorly endorsed and supported by the trial judge, used by respective defendant attorneys to convey ideas as to the charges contained within the complaint.

The preponderance of weight of the declarations of the defendant attorneys respectively places the complaint beyond reasonable argument.

Not any one of the defendant attorneys found it necessary to file a motion to make the complaint more certain.

The sum and substance of the hearing in Court July 2, 1945 was that the plaintiff, conformable to the will and directions of the trial judge, filed an amended complaint on July 23, 1945 (Tr. 126).

Subsequently, the corporate attorneys filed a second Motion to Dismiss and to Strike (Tr. 143).

Re The Corporate defendants' attorneys' memorandum in support of their second Motion to Dismiss,—

Excerpts,—

"The present amended complaint attempts to state a cause of action for infringement of Birely Patent No. 1,630,921, filed March 12, 1926, and granted May 31, 1927, for Windshield Cleaner" (Tr. 147).

". . . yet it complains of patent infringement in Count I and states, as a conclusion, that, by reason of an alleged violation of the Anti-Trust Laws, plaintiff is damaged in Count II" (Tr. 147).

"That said violations of said acts of Congress by said defendants General Motors Corporation and General Motors Sales Corporation, and violations of the Antitrust Laws of the Wisconsin Statutes, Chapter 133, by defendants caused plaintiff to be deprived of his legal rights to continue, profitably, the promotion of his business, which business originally grew rapidly under the said Birely Patent Rights assigned to plaintiff, and thereby defendants, General Motors Corporation and General Motors Sales Corporation substantially destroyed plaintiff's business and caused great loss and damage to the plaintiff" (Complaint, pp. 14-15) (Tr. 149).

"Paragraph 11

The garbled allegations of this paragraph seem to be to the effect that plaintiff's prior attorneys *erroneously considered* that the aforesaid Spencer prior art patent was a limitation upon the Birely patent in suit" (Tr. 153) (Emphasis Supplied).

"Paragraph 12 -

Here again we have a number of garbled allegations concerning the aforesaid Spencer prior art patent with a number of wild charges (but verified by plaintiff) to the general effect that Spencer, and one Patee, who are employees of General Motors Corporation, have violated certain rules and laws with respect to

the filing of the application for the Spencer patent” (Tr. 153) (Brackets inserted).

“Paragraph 13 is as follows:

‘Par. 13. That for an additional count for special damages, for violations of the said Compiled Laws of Michigan and United States Code of Laws hereinbefore set out in Paragraph 12 and to the same extent and as though the allegation of said violations were set out in full herein against said defendant, plaintiff alleges special damages, due to said violations by defendant referred to herein by reference, due to said employee Patee recording as a Notary Public the verification of hereinbefore said Spencer assignment to defendant General Motors Corporation’ ” (Tr. 154).

Plaintiff’s opposition in answer appears at Transcript 156.

A reading of the certified Transcript of Proceedings, dated September 10, 1945, on file in this court, will clearly show the following propositions pleaded to the trial court, and thus, presumably known to the court, by David A. Fox, attorney, associated with one certain Louis Quarles, attorney, each and/or both associated with Lines, Spodner and Quarles, attorneys for the Corporate defendants General Motors Corporation and General Motors Sales Corporation, to wit,—

at Page 2, excerpts,—

“Mr. Fox: There are four separate grounds to the motion.

The Court: Well, as I recall—I haven’t read it completely—when you had a number of these patent attorneys he claimed he owns the patent and that General Motors has infringed on it.

Mr. Fox: That is correct.” . . .

“The Court: Well, certainly, the cause of action can properly be brought in this District to say ‘I am an owner of the patent and you violated it.’

Mr. Fox: We recognize that. *There is a cause of action pleaded for a patent infringement against General Motors Corporation, and that is not attacked in this motion.*"

at Page 5 excerpts,—

"Mr. Fox: The Complaint is in two counts. The first count asserts a right to recovery for ~~patent~~ infringement, . . .

Now, the only way you can answer or explain that proposition is to examine the Complaint itself, and I could go through each paragraph individually.

The Court: No, you don't need to do that. You can just say it doesn't."

at Page 6, excerpts,—

"... General Motors Sales Corporation . . . *except* in the final paragraphs of the Complaint in the Prayer for relief there is a Prayer for relief for infringement against General Motors Sales Corporation.

Now, the third point of the motion deals with the second count of the Complaint *which asks the damages for alleged injury caused to the plaintiff by violations of the Sherman and Clayton Acts by the defendant* . . . The only allegations of Count 2 concerning plaintiff's alleged damage are excerpts that I would like to read. It alleges:

'That, plaintiff subsequent to manufacturing and vending articles of said Letters Patent was subject to great loss caused by violation of the defendants General Motors Corporation and General Motors Sales Corporation of the Antitrust Laws and Clayton Act . . .'

That occurs in paragraph 1 on page 13."

at Page 7, excerpts,—

"Then, there is another excerpt that deals with the topic:

'That said violations of said acts of Congress by said defendants General Motors Corporation and General Motors Sales Corporation, and violations of the Antitrust Laws of the Wisconsin

Statutes, Chapter 133, by defendants caused plaintiff to be deprived of his legal rights to continue, profitably, the promotion of his business, which business originally grew rapidly under the said Birely Patent Rights assigned to plaintiff, and thereby defendants, General Motors Corporation and General Motors Sales Corporation substantially destroyed plaintiff's business and caused great loss and damage to the plaintiff.'

Now, they are the only allegations where damage to plaintiff is mentioned *except* in the Prayer at the end of the Complaint, in more or less the same words.

The Court: Liberally construing the Complaint, isn't that a sufficient allegation?

The Court: He sets out that he was the owner of this patent, that the General Motors used it, and that he suffered damages by reason of their using it. It would almost follow if they had a good patent and they utilized it.

Mr. Fox: That is true, your honor, under Count 1 of his Complaint he makes that allegation as to General Motors,"

at Page 8, excerpts,—

"as to infringement.

Now, the Complaint is in two parts, two separate counts; the infringement count, and then this second count where he is attempting to recover damages because of alleged violations of the Sherman and Clayton Act.

The Court: The Anti-Trust Act, I see. All right." at Page 10, excerpts,—

"Now, the third (correction, fourth) point of our motion is a motion to strike certain specific parts of the Complaint, and I will have to take those up individually. (Correction above supplied by plaintiff.)

Some of them, the requests to strike, are based upon matters that have already been discussed. Others are more for reasons of technical defect in pleading.

Now, the first specific matter which we ask to be stricken is Paragraph 3 of Count 1."

The other additional paragraphs requested to be stricken, for reasons of technical defects in pleading are, Paragraphs 4, 6, 10, 11, 12 and 13 of Count 1.
at Page 12, excerpts,—

“Now, these separate and distinct items that we have asked be stricken operate partly to remove the unnecessary party, General Motors Sales Corporation, but they do not deprive the Complaint of a statement of a cause of action for infringement under the patent against General Motors Corporation. There is enough material left in there after these are out to cover everything that has been said in this Complaint in setting up this cause of action for infringement. All of this material, specific material, is for surplusage and is not an effort on our part to put the Complaint in such shape that it doesn't state what he has already stated as a real cause of action.”

at Page 13, excerpts,—

“The Court: Mr. Grant, you may submit the matter you have in reply.

Mr. Grant: Thank you.

The Court: Mr. Roy Grant appearing *in propria*,

Mr. Grant: Preliminary to getting into this discussion, your honor, I have drafted a memorandum here taking out of this Amended Complaint all of the paragraphs which defendants' counsel has asked to be stricken. It is really amusing, and I am only a layman, claim to be nothing more, but if you strike out the various paragraphs that they ask for and in the memorandum strike out the various paragraphs also that they refer to, you don't have a defendant pleaded in the case—you don't have a defendant pleaded in the case—and he appears before you and tells you that if you strike all that he ask you to strike that there will still be a case before the court. There wouldn't be a defendant in the case.

The Court: How about the General Motors?

Mr. Grant: There wouldn't even be the General Motors Company.

The Court: Why not?

Mr. Grant: In the 'Introduction' of his memorandum, paragraph 2: 'This motion is to dismiss as to the defendant, General Motors Sales Corporation, because that corporation was dissolved on January 2, 1942, as appears in paragraph 12 of the'

at Page 14, excerpts,—

" 'original complaint.' "

The following paragraph says: 'In addition to the above, the motion seeks to strike paragraphs 2 . . . ' Paragraph 2 is the defendant, General Motors Corporation.

The Court: Which cause of action are you talking about now; the first or the second?

Mr. Grant: Well, this is his motion to strike and dismiss relative to the Amended Complaint.

Mr. Fox: Mr. Grant, that is an error, evidently.

Mr. Grant: I wouldn't know that.

The Court: The motion speaks for itself; 3, 4, 6, 10, 11, 12 and 13 he seeks to strike.

Mr. Grant: I didn't know the argument would be limited to the motion.

The Court: The motion is what counts. Of course, you may call attention to the memorandum at any time. Go ahead."

at Page 16, excerpts,—

"Mr. Grant: Paragraph 2 they set out—and still working on the objections—

The Court: All right.

Mr. Grant: Paragraph 2, they set out: 'That Count I (comprising paragraphs 1 to 13 inclusive) be dismissed as to defendant, General Motors Sales Corporation, on the ground that that corporation is not charged with any of the acts complained of therein.'

The Court: Show me where you can where the Sales Corporation is alleged to have infringed the patent that you own. As I understood Mr. Fox, he says there was no such charge in the Complaint any-

where except that in the Prayer for relief, which isn't properly part of the Complaint, anyway. I thought maybe in view of the motion being made that you would be able to point out to me, since there is no place in the Complaint, that there is a charge that the Sales Company infringed. Now, where do you say that?

Mr. Grant: Well, on page 4: 'Replying to paragraph 2,'"

at page 17, excerpts,—

defendant General Motors Sales Corporation is charged with acts of infringement, and recovery for said infringements, gains, profits, advantages, as well as damages, is prayed for, to wit:

"1. Paragraph 10, original complaint—"

"The Court: 'Original complaint.' What about the Amended Complaint? We are now working on the Amended Complaint. I can't go referring back to the original. Paragraph 10 here?

Mr. Grant: The Amended Complaint is not the full Complaint, is it?

The Court: It certainly is. You stated it as an Amended Complaint. Did you intend it to be sort of supplemental to the other?

Mr. Grant: Yes, sir.

Mr. Fox: It isn't in that form, your honor.

The Court: Your Amended Complaint has Count 1, Paragraphs 1, 2, 3, 4, 5. It seems to be a complete document in itself. It doesn't refer to anything else and shouldn't. It ought to be all here. I can't take an Amended Complaint, something in there, and say, 'Well, here we got an original Complaint somewhere that has something in addition.'

Mr. Grant: The only reference we have—

The Court: Just a minute until I get through. You have sixteen pages of an Amended Complaint, in which your charges are divided up into Count 1 and Count 2, apparently. Now that"

at page 18, excerpts,—

“ought to be complete in itself without referring to any—

Mr. Grant: Well, you couldn't charge General Motors only with the infringement because General Motors from October 23 of 1936 to, I think, January 2 of 1942 manufactured the devices or the automobiles and the accessories, however did not dispose of the alleged patent infringements to the public. They sold them to a 100-per cent wholly-owned subsidiary, the General Motors Sales Corporation, and there would be no damages, as I understand it, if they manufactured billions of them and hid them somewhere. I might never know it and wouldn't care as long as they didn't damage my market, but their wholly-owned subsidiary, the General Motors Sales Corporation, did the selling and did the dirty work that caused the damage to me, and I attempted to plead it.

The Court: I don't think you are correct in that. I think if General Motors infringes your patent, manufactured the device covered by your patent and disposed of it, whether they went through the intermediary sales Corporation or whether they did it directly, it doesn't seem to make any difference.

Mr. Grant: It would in this respect, your honor, as I see it, and what I have in mind is this: that the wholly-owned sales corporation can produce their sales at a profit to the General Motors Corporation but in pleading the profits of just the General Motors Corporation I would be stripped of a great amount of money that the General Motors Sales Corporation made,”

at page 19, excerpts,—

“and that is a wholly-owned subsidiary of General Motors Corporation. I would have to plead it because General Motors didn't damage me in the sale of it; they transferred title only to the General Motors Sales Corporation. The General Motors Sales Corporation must be in the picture.

The Court: Why didn't you put them in the picture, then? You haven't.

Mr. Grant: I felt that I did, and especially in view of paragraph 9 of the Complaint—the original Complaint I have reference to—and it is a paragraph relative to the 'statutory notice on articles of the invention made and vended by the plaintiff by marking and fixing thereon the word "Patent"', etc., according to 'Rules of Practice in the United States Patent Office, and has given written notice to defendant General Motors Corporation of its said infringement of the Birely Patent.'

In Paragraph 10:

"That, the plaintiff relies on said marking, matters and things hereinbefore set out in paragraph 9 of this complaint with respect to defendant the dissolved General Motors Sales Corporation, except only this dissolved said corporation was not given written notice of its infringement, but to the same extent and as though the allegations of said paragraph 9 were set out in full herein against said defendant General Motors Sales Corporation and said paragraph 9 is incorporated herein by reference and made a part of the"

at page 20, excerpts,—

"allegations of this count against said General Motors Sales Corporation."

And they are pleaded in the Prayer for relief and I felt that that covered it. Now, if it doesn't, I ask that it may.

"The Court: If you left out something that you had in the original Complaint, thinking that was also in, you should be given an opportunity to incorporate that in your Amended Complaint, but your Amended Complaint ought to stand for itself. It is in that form. It is a long document, and if you wanted to allege infringement by this company you don't have to take over a page or two."

(Plaintiff's note inserted here. The original charge of infringement was set out in the 2d preceding paragraph herein. The number of lines total eleven (11).)

"Mr. Grant: I felt these paragraphs would revert back to the original Complaint when I was drawing this. That is what I had in mind.

The Court: All right. Go ahead."

at page 21, excerpts,—

"Mr. Grant: Passing on to 4, in the objections: 'Defendants, General Motors Corporation and General Motors Sales Corporation, further move to strike the following paragraphs of Count I of the Amended Complaint on the following grounds:' And they have seven or eight different items or sub-paragraphs there."

In answer to that:

"Plaintiff further objects to defendants motion, paragraph 4, and sub-paragraph starting on printed line 8, page 2, on grounds of legal insufficiency of 'special defense' presented by motion and plaintiff believes Rule 8 (a) (2) is erroneously applied by defendants in that, this single numbered averment does not constitute plaintiff's short and plain statement of claim showing that pleader is entitled to relief, but rather, said paragraph 6 is supported by"

at page 22, excerpts,—

"Rule 10 (b),—The contents of each (averments of claim . . . in numbered paragraphs) of which shall be limited as far as practicable to a statement of a single set of circumstances."

We don't claim that the paragraph in reference here, paragraph 6, is our plain, short statement of claim. We don't claim that. It is just one of the paragraphs in the count, and it is a single set of circumstances.

Now, they go on and state here "that it violates Rule 8 (e) in that each averment is not 'simple, concise, and direct' . . .".

"Plaintiff denies a violation of Rule 8 (e) and al-

leges said paragraph 6 of Plaintiff's amended complaint is precise pleading, overcoming to the contrary otherwise certain disputable presumptions of fact drawn from inferences and pleads only such supporting particulars or conclusive ultimate facts contrary to such presumptions, and said paragraph 6 is pleaded pursuant to Rule 9 (d), 'Official Document or Act,' and further, said stronger ultimate facts therein said paragraph 6 are pleaded for the purpose of introducing evidence with respect to said stronger ultimate facts and without surprise at trial to the defendants, and said evidence or facts necessary to plaintiff to effectuate substantial justice, and substantiate or establish the existence or truth by evidence the real, rather than otherwise presumptive honest, just, upright, loyal, not false, conduct of the defendant General Motors Corporation with"

at page 23, excerpts,—

"respect, to defendant's General Motors Corporation co-pending patents, to plaintiff's rights, and to injury and damages by defendants of plaintiff's rights pleaded therein plaintiff's complaint and amended complaint."

Going back to the motion

"that it sets forth evidence; that it sets forth matter that has nothing to do with the claim of plaintiff, but relates to prior patents which are defenses of defendants, if anything, Plaintiff denies that said paragraph 6, quote, 'that it sets forth matter that has nothing to do with the claim of the plaintiff, but relates to prior patents which are defenses of defendants if anything,' and plaintiff qualifies defendants word 'prior' and cojoins with it the word 'co-pending' and plaintiff further denies such prior co-pending applications or patents are defenses 'only' of defendants, if anything."

at page 26, excerpts,—

"Mr. Grant: I thank you. 'Replying to paragraph 2, defendant General Motors Sales Corporation is

charged with acts of infringement'—we covered that, and I felt that they were properly pleaded as a defendant under paragraph 10 of the original Complaint, and paragraph 1, page 19, that is, the Prayer of the original Complaint; paragraph 2, page 19, Prayer of the original Complaint (Emphasis supplied).

4. Introductory Paragraph, page 15, Prayer, Amended Complaint.

5. Paragraph 2, page 15, Prayer, amended complaint.

Now, if you feel that that is not adequate to support the issues before the court I do ask the right to take and amend that and receive your directives on it."

at page 27, excerpts,—

"In paragraph 3 they state here that it should be dismissed because it does not state a cause of action under the anti-trust laws since no special damage is alleged.

(a) A cause of action is not required to be pleaded, rather, Rule 8 (a) (2), only a short plain statement of the claim showing that the pleader is entitled to relief; and

(b) Plaintiff further alleges in opposition, Section 4, Violation of Anti Trust Laws—Damages to persons injured (38 Stat. 731; 15 U. S. C. A., Sec. 15) does not require 'special damage' as a condition precedent to a claim for relief or to sustain a claim for relief, and plaintiff therefore strongly urges the Court to void this defense of the defendants.

I can read that statute. It is only six or seven lines long.

The Court: No.

Mr. Grant: All right. With respect to paragraph 4, replying to paragraph 4, 'plaintiff alleges in opposition to the following sub-paragraphs as follows:

Par. III. Answering said paragraph plaintiff alleges Public Law 740, an Act, chapter 589, 77th Congress, 2nd session, Oct. 10, 13, 1942 removed any bar of any existing statute of Limitation applicable to

violations of the Antitrust Laws of The United States, by suspending said statutes until June 30, 1945. (Copy of said Public Law is hereto attached as plaintiff's exhibit and made a part hereof.)' "

The Public Act is:

"That the running of any existing"

at page 28, excerpts,—

"statute of limitations applicable to violations of the antitrust laws of the United States, now indictable or subject to civil proceedings under any existing statutes, shall be suspended until June 30, 1945, or until such earlier time as the Congress by concurrent resolution, or the President, may designate. This Act shall apply to acts, offenses, or transactions where the existing statute of limitations has not yet fully run, but it shall not apply to acts, offenses, or transactions which are clearly barred by the provisions of existing laws.

Sec. 2. That this Act shall be in force and effect from and after the date of its passage.

Approved, October 10, 1942."

at page 29, verbatim,—

"Par. VI. Does not violate Rule 8 (a) (2) but rather, within said paragraph is particular averments of substantial material ultimate facts on which plaintiff relies on, which can be replied to by the defendant, and further in said paragraph is material allegations of circumstances, Rule 10 (b) to which plaintiff means to offer evidence in support of plaintiff's claim for relief.

Paragraph 10. Plaintiff insists vigorously the said prior Spencer Patent, (assignee General Motors Corporation, and defendant herein) alleged as the proximate cause of special damage and specifically stated (Rule 9, F. R. C. P.) in said paragraph 10, and said paragraph is an averment or a material ultimate fact to which plaintiff means to offer evidence, and to which said averment defendant can reply; and said prior,

but with emphasis on co-pending, said patent can be offered in evidence by the plaintiff.

Paragraph 11. Plaintiff emphatically insists that the 'smear' conclusions alleged by defendants' attorneys fully meet the test of a legally insufficient defense of alleged 'garbled allegations' . . .".

There is no legal defense. In fact, the Federal Rules of Civil Procedure have no rules as to allegations. They might be redundant, but "garbled allegations" is not a part of the legal defense so stated in the Federal Rules of Civil Procedure.

". . . rather than the pleadings of plaintiff as to the subsequent conditions, supplementary to the proximate"

at page 30, verbatim,—

"cause alleged, between the defendants' original act or omission and the injurious consequences to plaintiff, for which said consequences, the defendant, the original wrong-doer, is alleged to be liable; and said paragraph is a material averment of an ultimate fact to which the plaintiff means to offer evidence, and plaintiff vigorously urges the Court to strike this 'special defense' of defendants which in law constitutes no defense and is irrelevant, immaterial and not responsive.

"Paragraph 12. Plaintiff strongly urges Court to Judicially notice that on motion to dismiss and to strike, plaintiff's well pleaded ultimate facts are admitted by defendants, and as such admissions, plaintiff again insists that the 'Smear' conclusions alleged be defendants' attorneys fully meet the test of a legally insufficient defense of alleged 'garbled allegations', rather than the pleadings of plaintiff as to unlawful precedent conditions well pleaded as a material averment of a single set of circumstances (Rule 10 (b) F. R. C. P.), to which defendant can answer, and to which plaintiff means to offer evidence, and plaintiff vigorously urges the Court to strike this

'special defense' of defendants which in law constitutes no defense and is irrelevant, immaterial, and not responsive.

"Paragraph 13. By reference plaintiff again vigorously asserts the allegations pleaded in paragraph 12, *supra*.

"Wherefore, plaintiff prays that defendants take nothing by its motion on file herein; that the defendants be required"

at Page 31, verbatim,—

"to file their answer as the case is not one which has been recently filed, and the defendant parties are all familiar with the subject matter involved."

Respectfully submitted.

"The Court: Very well. The matter will be taken under advisement.

Mr. Grant: Your honor, can I make one more reference here in court, and that is with reference to Beegle v. Thompson citation by defendants' counsel?

The Court: Go ahead.

Mr. Grant: Under No. 5. In that case defendant had infringed plaintiff's patent by sale of certain type of iron and it was determined the defendant had not infringed plaintiff's patent. There remained nothing on which to charge unfair competition or on which to create a liability. The charge of unfair competition in Count 2 is a separate charge, and we are asking for relief and it is not predicated on the basis that unfair competition existed; only (if) infringement existed. That is not our charge in our Complaint. Thank you. (If in bracket inserted by plaintiff.)

The Court: Court will be in recess."

64 days thereafter, September 10, 1945, the trial court filed a formal opinion (Tr. 170) with respect to the procedural hearing of the Corporate defendants' attorney's Motion to Dismiss and to Strike and the plaintiff's opposition of record in connection with the sufficiency of the veri-

fied allegations (which for the purpose of this motion must be taken as true) of the consolidated complaint agreed to. (Agreement, page 20, Tr. of Proceedings, Sept. 10, 1945.)

The trial court in its formal opinion firmly establishes any "true" conviction that the overt acts of abuses of discretion outside the Federal Rules of Civil Procedure and of the Court's prejudice judicially maintained against this plaintiff, and that there are persons who will unreasonably and seriously interfere with the plaintiff's interest and inalienable and statutory Civil rights by foreclosing procedurally the plaintiff's provisional remedies in not having the plaintiff's claims for relief exhibited in open court or his cause heard with judicial fairness, and that the Federal Rules of Civil Procedure *can be* and *have been* repudiated, overridden and trampled underfoot in the United States District Court for the Eastern District of Wisconsin, all of which is clearly in evidence therein the formal opinion grossly deficient in details so as to properly inform the plaintiff, yet high handedly summarily dismissing plaintiff's verified issues of fact and complete counts, yet, giving summarily unwarranted relief by final judgment on demurrer to corporate defendants in connection with material verified averments of fraud, infringement as to one defendant, and Anti-Trust law violations to the private damage of the plaintiff.

The corporate defendants under date of November 19, 1945, effective November 23, 1945, mailed a proposed order "*for Entry Upon*" the Court's formal opinion, to be heard three days later, November 26, 1945 (Tr. 176).

Plaintiff filed a brief in strong opposition to the hearing, scheduled for November 26, 1945, with the clerk of the trial court and served corporate counsel (Tr. 180).

The result is set out on page 3 of the certified tran-

script of proceedings, dated November 26, 1945, on file in this court. However, page 3 excerpts are,—

“The Court: Well, if his order complies with what I indicated in my opinion that is all there is to it—we won’t spend any more time on it—the date of my opinion being November 13th.

Mr. Grant: That is right.

The Court: And you may examine his proposed order and if there is anything specific about it that you think doesn’t comply with the opinion this court has rendered you may call my attention to it.

Mr. Grant: What time can I have, your honor?

The Court: Well, you can have a couple days. You can have until Wednesday at five o’clock. If there is anything about that order you think doesn’t comply with the opinion you can tell it to me and I won’t consider the order before five o’clock on Wednesday.

Mr. Grant: Thank you very much.

(Which were all the proceedings had in the above entitled matter at said time.)”

On November 26, 1945 plaintiff duly filed and served an application to the court, with affidavit in support, for the provisional remedy of *Judgment by Default* against the corporate defendants premised on 5 separate propositions (Tr. 190).

On November 29, 1945, at 9:30 A. M., (the time for filing having been enlarged by order of the trial judge) plaintiff filed an “*Affidavit and Answer to Order of the Court*” as so directed to do in court under date of November 26, 1945. Among other declarations in the answer and affidavit plaintiff complains of grieving procedural violations by corporate defendants and of existing oppression under Due Process of Law and Equal Protection of the Laws (Tr. 201).

On November 29, 1945, presumably only, at 3 P. M., the corporate defendants’ attorneys, Lines, Spooner and

Quarles order for "*Entry Upon*" the court's opinion was adopted verbatim by the trial judge and signed by him irrespective of this plaintiff's opposition set forth in plaintiff's affidavit and answer to Court, the contents of which presumably were fresh in the court's mind, the said answer having been filed with his secretary at 9:30 A. M., in the morning thereof November 29, 1945 (Tr. 220).

On November 30, 1945 the corporate attorneys mailed to the plaintiff notice respecting corporate attorneys order for "*Entry Upon*" the Court's opinion adopted verbatim and signed by the trial court (Tr. 223).

Also, on November 30, 1945, the corporate attorneys mailed to plaintiff a *Memorandum of Defendants in Opposition to Motion for Default Judgment*, together with, Affidavit of Service (Tr. 224, to 227).

Within this memorandum corporate defendants endorsed the fact the plaintiff has exhibited great effort to maintain his substantive rights from being destroyed by procedural machinations, regardless of being foisted on him, by whosoever.

At Transcript 226, the following appears,—

"Practically the entire time since the filing of the complaint has been consumed in efforts to bring plaintiff's complaint and amended complaint into a form which could be answered. *The Plaintiff Has Contested Every Step of this Effort. . .*"

The clear record is fantastically defiled and polluted by any other interpretation, exaggerated, as to the "true" information set forth in the complaint and amended complaint in connection with the "true" ideas known and held by the corporate attorneys and so expressed in their motions, memorandums, and arguments of record before the trial court.

At page 9, of the Certified Transcript of Proceedings,

dated December 3, 1945, on file in this court, on Motion of plaintiff for Judgment by Default against General Motors Corporation and General Motors Sales Corporation, the plaintiff was denied by the trial judge the use of any law of the Wisconsin Statutes, and it appears,—

(Grant): "Wisconsin Statute. . . ."

"The Court: You don't need to quote any Wisconsin Statute."

at Page 11 and 12, same certified transcript, appears,—

"The Court: Let me ask at this point: Has there been an answer filed in this case up to this date?

Mr. Grant: No, sir, there has been no answer.

The Court: I think you are taking an awful lot of time here.

Mr. Grant: It is the only way I can bring it out to you.

The Court: You filed a Complaint here in which you joined in about a half dozen different attorneys and you claimed they were in conspiracy against you, and these attorneys came in.

Mr. Grant: Yes. I couldn't get my day in court, your honor.

The Court: Yes. But what I am getting at is with all these preliminary motions even if the defendants were in default there has been no chance of bringing this case on for trial. The court could, as a matter of discretion, allow them to file their answer.

Mr. Grant: Your honor, I go along with you, but you have cancelled out those defendants prior to July 23rd when the Amended Complaint was filed, and there is only one motion by the defendant since that date, and that was to bring on a hearing September 10, 1945. Originally, it was scheduled for August 20th, I think, or 21st, and my father died on the 15th, and I had to ask for your consideration to postpone it because of the statements which I have already referred to.

The Court: You were granted that.

Mr. Grant: That I was. And the only intervening

time there has been three weeks from August 17th or 20th, there, to September 10th when it came on for hearing. Now, since that time the fact remains that there are 205 days here that these issues have not been joined, and there is a lot of things that can happen where a plaintiff charges fraud to the defendants, that if they are guilty of the fraud, as I charge, they can be guilty of a lot of other things damaging to the plaintiff within 205 days, and the issues are not joined in that Complaint as I filed it or in the Amended Complaint, . . ."

Page 11 also indicates the total interruption by the court of the plaintiff's presentation to the court of plaintiff's application for Judgment by Default against the corporate defendants General Motors Corporation and General Motors Sales Corporation. Further hearing was denied to this plaintiff after the presentation had reached approximately half-way of the 4th application. The fifth application was not before the court, in any sense during the hearing.

At Transcript 229, page 15 of same certified transcript of proceedings, appears colloquy, or motion otherwise, of attorney and officer of the court, Louis Quarles, and parts are quoted,—

" . . . I have underscored certain parts in red."

"I have indicated them in red in the affidavits, copy of it."

On December 3, 1945, the trial court judge signed a final order, denying plaintiff the provisional remedies he sought in his application for Judgment by Default. The order also abuses the lawful discretion of the trial court by abridging, without any cause, not to mention good cause, shown or presented to the court by the corporate defendants, the time in which the defendants may answer as prescribed by the Federal Rules of Civil Procedure then and there in effect (Tr. 228, or, Appendix "B").

On December 4, 1945, the trial court judge signed an order of the corporate defendants' attorneys' Lines, Spooner and Quarles, with the colloquy of the motion of attorney Louis Quarles of December 3, 1945 seemingly fresh in his mind, to the effect, that matter directed to the court's attention the same being indicated,—

“by the reporter's markings”,

upon said affidavit of Roy Grant, Jr., filed November 29, 1945, be and the same is hereby stricken as scandalous; 5:vp (Tr. 230, or Appendix “C”).

Plaintiff's Notice of Appeal appears at Transcript 231.

Plaintiff's *Ex parte* application for permission to withdraw certain specified original papers appears at (Tr. 242); Order to withdraw (Tr. 245); Receipt of clerk for return (Tr. 248).

The statement of appellees, pursuant to Section 3 of Rule 10, United States Court of Appeals appears at (Tr. 251).

Plaintiff-Appellant's designation of Record appears at (Tr. 254).

Defendant-Appellees' designation of additional contents of Record on Appeal appears at (Tr. 267).

Plaintiff-Appellant's statement of Points appears at (Tr. 283).

Defendant-Appellees attorneys Motion to Dismiss the Appeal of the appellant, Roy Grant, Jr., for want of jurisdiction appears at (Tr. 301). The Brief at (Tr. 304).

Plaintiff-Appellant's Emergency Petition to void, but not expunge from the record, corporate defendants' attorneys' Motion to Dismiss Appeal appears at (Tr. 311).

The Appellant's Brief appears at (Tr. 325).

Appellant's second Emergency Petition, for Correction of the Record appears at (Tr. 344).

Defendants-Appellees' opposition to Appellant's Emergency Petition appears at (Tr. 355).

The Appellate Court's Notice of Order denying appellant's Emergency Petition appears at (Tr. 358).

Plaintiff-Appellant's petition for rehearing is set out at (Tr. 363).

The Appellate Court's order denying Appellant's petition for Rehearing for Correction of the record appears at (Tr. 380).

Plaintiff-Appellant's inquiry to Appellate Court re disposition of Appellee's Motion to Dismiss and Appellant's Emergency Petition to void Appellee's Motion, appears at (Tr. 381).

The Appellate Court's order, dismissing the Plaintiff-Appellant's appeal for the reason that the orders appealed from are interlocutory and not final, appears at (Tr. 382).

Plaintiff-Appellant's Petition for stay of mandate pending application for certiorari to the Supreme Court of the United States appears at (Tr. 381).

Plaintiff-Appellant's Petition for the certification of transcript of the record including designated proceedings in the Appellate Court to the Supreme Court of the United States appears at (Tr. 396).

The Appellate Court's order to transmit to the Supreme Court the certified transcript of record appears at (Tr. 411).

The letter from the Appellate Court, clerk, advising the record will be held by the office of the Appellate Court, appears at (Tr. 412).

Petitioner's petition, for extending period for applying for Writ of Certiorari to the Supreme Court of the United States appears at (Tr. 416).

The order, of the Honorable Mr. Justice Wiley Rutledge,

Associate Justice of the Supreme Court of the United States, extending time within which to file petition for certiorari, appears at (Tr. 430) and at Appendix "E" herein.

Letter, July 29, 1946, from the Honorable Clerk's office of the Supreme Court of the United States, advising, the references in your petition and brief should be to the type-written record, appears at (Tr. 436) and at Appendix "F" herein.

This petition seeks a writ of certiorari, to review the judgments of the United States District Court for the Eastern District of Wisconsin, entered November 30, 1945, December 3, 1945, and December 4, 1945; to review the judgment of the Circuit Court of Appeals for the Seventh Circuit, entered March 12, 1946, dismissing plaintiff-appellant's appeal for the reason the orders appealed from are interlocutory and not final.

II.

JURISDICTION TO REVIEW JUDGMENTS.

The jurisdiction of this Court to review the judgment of the Circuit Court of Appeals is conferred by Section 240 (a) of the Judicial Code, as amended by the act of February 13, 1925, Chapter 229, 43 Stat. 936 and amendments thereto May 22, 1939 included, which is as follows:

“In any case, civil or criminal, in a circuit court of appeals, or in the Court of Appeals of the District of Columbia, it shall be competent for the Supreme Court of the United States, upon the petition of any party thereto, whether Government or other litigant, to require by certiorari, either before or after a judgment or decree by such lower court, that the cause be certified to the Supreme Court for determination by it with the same power and authority, and with like effect, as if the cause had been brought there by unrestricted writ of error or appeal.”

The date of the Circuit Court of Appeals judgment sought to be reviewed is March 12, 1946.

III.

QUESTIONS PRESENTED.

1. Whether in hearing, on Monday, November 26, 1945 defendants' attorneys, Lines, Spooner and Quarles, Order forwarded by regular mail to plaintiff on Monday, November 19, 1945, in hearing said Order over the objections and authorities cited in the Plaintiff's Brief, said Plaintiff's Brief filed with the clerk of Court, B. H. Westfahl, at 10:30 A. M. Saturday, November 24, 1945, said Plaintiff's Brief served by Registered mail on opposing Counsel Rule 5 (b), F. R. C. P., November 23, 1945, in hearing said defendants' attorneys, Lines, Spooner and Quarles, Order for *entry upon* the Court's opinion, or was the plaintiff unduly prejudiced by abuse of discretion outside the law of the Federal Rules of Civil Procedure, by lack of due process of law, and Equal Protection of the laws.

2. Whether on November 26, 1945 in limiting, by Judicial decree, to two (2) days, November 27, 1945, and November 28, 1945 at 5 P. M., as an essential condition to plaintiff's opportunity for plaintiff to prepare and file with the Trial Court plaintiff's answer in opposition to any portions of defendants' attorneys, Lines, Spooner and Quarles, Order for entry upon the Court's opinion, or, is the conduct of the trial court unduly oppressive to the plaintiff and, an abuse of discretion infringing on plaintiff's Civil Rights of Due Process of Law.

3. Whether at the time 4:50 P. M. the 28th day of November, 1945 plaintiff phoned the office of Judge F. Ryan Duffy for an extension of time in order that plaintiff could fundamentally perform manually and physically some of the essential requirements of the November 26,

1945 decree of Judge F. Ryan Duffy, said decree detrimental to plaintiff, a layman, in scant miserly duration of time, said scant miserly duration of time decreed as essential condition, for plaintiff to file his answer with the Court in opposition to defendants' attorneys Lines, Spooner and Quarles, Order for entry upon the Court's opinion, said scant miserly duration of time, as essential condition, was extended to overnight and to the following morning, dead line, 10 A. M. November 29, 1945; in conditioning the original said decree by then (4:50 P. M. November 28, 1945) also ordering something else extra, in addition, namely, copies of plaintiff's answer in opposition to be served also on defendants' attorney David A. Fox of the firm of defendants' attorneys, Lines, Spooner and Quarles, said copies of plaintiff's answer in opposition to said defendants' attorneys, Order for entry upon the Court's opinion, or is the conduct of the trial court oppressive to the plaintiff and, an abuse of discretion, and an infringement on plaintiff's civil rights of Due Process of Law.

4. Whether, in granting, defendants' attorneys, Lines, Spooner and Quarles, Order for entry upon the Court's opinion, quotation from attached *notice* "in the form hereto attached for entry upon the Court's opinion" the Court thereby not duly and not fully advised in open Court of the plaintiff's position in opposition against said defendants' attorneys, Lines, Spooner and Quarles, Order for entry upon the Court's opinion, or is the conduct of the trial court oppressive to the plaintiff and, an abuse of discretion and an infringement on plaintiff's civil rights of Due Process of Law of Notice and full hearing in the premises in open court, and a denial of Equal Protection of the Laws.

5. Whether, in granting judicial notice on November 26, 1945 to an enlarged, not true, but feigned invented Order

by defendants' attorneys, Lines, Spooner and Quarles, said feigned invented Order by defendants' attorneys purporting to be founded truly on the opinion of the Court dated November 13, 1945 and filed in the discretion of the Court, November 13, 1945, or does the conduct of the Court endorse and support fraud, and collusion, and deny to plaintiff by excesses in abuse of discretion plaintiff's civil rights of Due Process of Law of Notice and full hearing in the premises in open court, and a denial of Equal Process of the Laws.

6. Whether in granting, judicial notice on November 26, 1945 to an enlarged, not true, but feigned invented Order by defendants' attorneys, Lines, Spooner and Quarles, said feigned invented Order by defendants' attorneys' purporting to be founded truly on the opinion of the Court dated November 13, 1945, filed November 13, 1945, said opinion of the Court dated and filed, 64 days, after a hearing on September 10, 1945 on the Motion of defendants' attorneys, Lines, Spooner and Quarles, to dismiss and to strike certain paragraphs, when on September 10, 1945 the Court took the matter of disposing of said Motion under advisement, or does the conduct of the court in 64 days under advisement abuse discretion outside of the time factors set out under the Federal Rules of Civil Procedure and Rules of the Trial Court to the prejudice of the plaintiff in connection with the hearing and disposition of motion.

7. Is there any credible evidence to support the granting, on November 29, 1945 defendants' attorneys, Lines, Spooner and Quarles, Order, said Order feigned and invented, enlarged but not true, said Order purporting to be founded truly on the opinion of the Court dated November 13, 1945, (in granting) Paragraphs 2, 3, 5, B., C., D., E., F., and G., of said feigned Order or, is the order clearly

erroneous for want of appropriate findings upon the evidence and argument of record, said record obviously lacking citations or appropriate citations of authorities by said defendants' attorneys in argument to support said granting, and a denial to plaintiff of provisional remedies pursuant to substantive law by final summary procedural judicial decree on corporate defendants motion to dismiss, or on demurrer.

8. Whether in holding, that the plaintiff's verified pleadings of the Original Complaint and of the Amended Complaint and the plaintiff's Affidavits presented no justiciable issue of fact with respect to defendants' attorneys, Lines, Spooner and Quarles, unverified pleadings and Order for entry upon the Court's Opinion dated November 13, 1945, certain paragraphs of said unverified Order numbered II, III, IV, V B., C., D., E., F., and G., all of said Order, for entry upon the Court's Opinion, enlarged, not true, but feigned and invented and purporting to be founded truly on the opinion of the Court dated November 13, 1945, or does the conduct of the court endorse and support fraud, and collusion, and deny to plaintiff by excesses in abuse of discretion plaintiff's civil rights of Due Process of Law of Notice and full hearing in the premises in open court, and a denial of Equal Process of the Laws.

9. If there is credible evidence to support the dismissal for all judicial purposes, plaintiff's verified Complaint and verified Amended Complaint with respect to General Motors Sales Corporation, or does the conduct of the court endorse and support judicial fraud, and collusion, and deny to plaintiff by excesses in abuse of discretion plaintiff's civil rights of Equal Protection of the Law, and deny to plaintiff provisional remedies pursuant to substantive law by final summary procedural judicial

decree of dismissal of Count 1 and Count 2 of consolidated complaint on corporate defendants' Motion to Dismiss, or on demurrer.

10. If there is credible evidence to support a legal defense refusing plaintiff a trial on the controversial issues of verified fact with respect to plaintiff's damages in verified Count 2, of Amended Complaint, said Count 2 alleging violations of prohibitions of the Anti Trust and Clayton Act Laws of the United States and the Anti Trust Laws of the Wisconsin Statutes by defendants General Motors Corporation and General Motors Sales Corporation to the damage of this herein individual Plaintiff-Appellant residing within the Eastern District of Wisconsin, or does the conduct of the court endorse and support judicial fraud, and collusion, and deny to plaintiff by excesses in abuse of discretion plaintiff's civil rights of Equal Protection of the Law, and deny to plaintiff provisional remedies pursuant to substantive law by final summary procedural judicial decree of dismissal of Count 2 of consolidated complaint on corporate defendants' motion to dismiss, or on demurrer.

11. Whether in refusing plaintiff a trial on the controversial issues of verified fact within plaintiff's pleadings, said issues of verified fact dismissed on grounds not based on one of the statutory grounds for dismissal, said issues of verified fact dismissed by defendants' attorneys, Lines, Spooner and Quarles, Order for entry upon the Court's opinion dated November 13, 1945, said defendants' attorneys' Order adopted by F. Ryan Duffy, United States District Judge, re-dated November 29, 1945 at 3 P. M., said issues of verified fact dismissed by defendants' attorneys, Order adopted by F. Ryan Duffy, United States District Judge, said verified issues of fact in Paragraphs V B., C., D., E., F., and G. of said defendants'

attorneys' Order for entry upon the Court's Opinion, or does the conduct of the court endorse and support fraud, and collusion, and deny to plaintiff by excesses in abuse of discretion plaintiff's civil rights of Due Process of Law of Notice and full hearing in the premises in open court, and a denial of Equal Protection of the Laws.

12. Whether in granting, November 29, 1945 at 3 P. M., Paragraph V C. of defendants' attorneys, Lines, Spooner and Quarles, Order for entry upon the Court's Opinion dated November 13, 1945, the trial Court granted more than said defendants' attorneys petitioned the Court to grant with respect to Point 4, Paragraph 6, in defendants General Motors Corporation and General Motors Sales Corporation Motion to dismiss and to strike dated, July 31, 1945, or does the granting of more by granting less demonstrate the conduct of the court with intent to support fraud, and collusion, and deny to plaintiff by excesses in abuse of discretion plaintiff's civil rights of Due Process of Law of Notice and full hearing in the premises in open court, and a denial of Equal Protection of the Laws.

13. Whether in granting, Paragraph VI of defendants' attorneys', Lines, Spooner and Quarles, Order for entry upon the Court's Opinion, did F. Ryan Duffy, United States District Judge, prejudiced this plaintiff on November 29, 1945 at 3 P. M., by abuse of discretion by enlarging,

(a) beyond the law of the F. R. C. P.;

(b) beyond the law of the Wisconsin Statutes;

each either in the singular, or both in the conjunctive,—the time within which defendants may file their answer, or without good cause shown, can the promulgated Federal Rules of Civil Procedure be abridged, overruled, and trampled underfoot to the prejudice of the plaintiff.

14. Whether in granting, November 29, 1945 at 3 P. M., Paragraphs V F., G., of defendants' attorneys', Lines,

Spooner and Quarles, Order for entry upon the Court's opinion, the plaintiff has been denied and refused a trial of the verified averments of plaintiff's Complaint and Amended Complaint of substantial relevant material verified facts alleging; briefly,—

False impersonation of a public officer;

Counterfeiting or forgery, alteration of public document;

Same, uttering of instrument;

Violation of United States Code of Laws;

Making, forging, counterfeiting, or altering Letters Patents;

all said verified substantive facts alleged all to the injury of this plaintiff, said verified facts not subject on statutory grounds to a point of Motion to strike on technicalities; yet said sordid reprehensible allegations admitted by defendants on point of Motion to strike dated July 31, 1945, or can the plaintiff's provisional remedies of substantive law be abridged by abuses of discretion under the Federal Rules of Civil Procedure and the plaintiff denied Equal Protection of the Law.

15. Whether in holding, November 29, 1945 at 3 P. M., each point of defendants General Motors Corporation and General Motors Sales Corporation Motion dated July 31, 1945 to dismiss or to strike constituted a Motion, in defendants' attorneys' Lines, Spooner and Quarles, Order for entry upon the Court's opinion, said Order signed by F. Ryan Duffy, U. S. District Judge under re-date of November 29, 1945 at 3 P. M., or does the whole motion to dismiss, a demurrer, fall if a material part of the pleading is sustained and other points of the motion denied.

16. Whether in the entry of defendants' attorneys' Order for entry upon the Court's opinion in favor of the defendants General Motors Corporation and General Motors Sales Corporation on the 29th day of November, 1945,

the trial court denied to plaintiff the inalienable right to trial for redress of alleged verified grievances, or if Equal Protection of the Laws for the plaintiff can be abridged by infringement of substantive law by superior corporate power.

17. Whether in refusing, any one, several, or all of plaintiff's five (5) Applications for Judgment by Default, plaintiff, was prejudiced by abuse of discretion, was prejudiced by denial of Due Process of full hearing in open Court on the Merits of No. 4 application for Judgment by Default and no hearing in open Court or otherwise in any sense whatsoever on No. 5 Application for Judgment by Default, was prejudiced by Trial Court depriving plaintiff of finding of facts on the merits of the affidavit and pleadings in said Applications for Judgment by Default, or if provisional remedies under the Federal Rules of Civil Procedure are void when the defendants before the court represent superior corporate power and thus, the plaintiff shall be stripped of Equal Protection of the Laws.

18. Whether on December 3, 1945, in open Court to deny plaintiff in his argument before the Court the use of any Wisconsin Statute, the Court stating, "You don't need to quote any Wisconsin Statute. We are under the Federal Rules of Civil Procedure," or whether tyrannical archaic excesses of abuse of discretion can strip the plaintiff, a citizen of the United States residing in the state of Wisconsin, of the protection afforded under the substantive law of the Wisconsin Statutes.

19. Whether in holding, December 3, 1945 in the language of the prefix to the order dated December 3, 1945, signed by F. Ryan Duffy, United States District Judge, the settled and determined statement by the Court namely, "the plaintiff having in open Court elected to stand on the first amended complaint;" therein and thereby said order

making false a record of the United States Courts, or whether the ugly truth can not be transcended by substituted beautiful falsehoods in the records, even judicial decrees, of the United States Courts.

20. Whether in granting, on December 3, 1945 the "first" order of the Court in favor of the defendants General Motors Corporation and General Motors Sales Corporation, and in favor of defendants' attorneys' Lines, Spooner and Quarles, enlarging the time, within which defendants may file their answer, or without good cause shown, can the promulgated Federal Rules of Civil Procedure be abridged, overruled and trampled underfoot by abuse of discretion with prejudice to plaintiff by abridging the law of procedure in connection with proper time to answer.

21. Whether in the entry of Order in favor of the defendants General Motors Corporation and General Motors Sales Corporation and in favor of defendants' attorneys' Lines, Spooner and Quarles, said Order dated December 3, 1945, the trial court denied plaintiff the right to determine what law he would follow in pursuit of his verified allegations, denied plaintiff the right of "true" representations in the records of the United States Courts, denied plaintiff recourse to provisional remedies in connection with time to answer, or, does the conduct of the court endorse and support denial of inalienable civil rights and Equal Protection of the Law.

22. Whether Order dated December 4, 1945. In granting, defendants', General Motors Corporation and General Motors Sales Corporation, attorneys' Lines Spooner and Quarles, Order, dated December 4, 1945, therein said Order an Overt Act of fraud and deceit of said defendants' attorneys' Lines, Spooner and Quarles, said Overt Act of fraud and deceit in said Order making false a record of the

United States Courts, did the court prejudice this plaintiff by tyrannical excesses of abuse of discretion, and did the court subscribe to falsifying the records of the United States Courts, or, is fraud and deceit, and the making false a record of the United States Courts a legal act above reproach.

23. Whether Order dated December 4, 1945. In aiding and abetting the making false a record of the United States Courts by the Overt Act of signing F. Ryan Duffy, over the title of "United States District Judge, on December 4, 1945, to the Order of defendants' General Motors Corporation and General Motors Sales Corporation attorneys' Lines, Spooner and Quarles, dated December 4, 1945, did the court prejudice this plaintiff by tyrannical excesses of abuse of discretion, and did the court subscribe to falsifying the records of the United States Courts, or is aiding and abetting the making false a record of the United States Courts an act of good faith within the United States Judiciary.

24. Whether in hearing, an oral Motion in disguise as a speaking suggestion in open Court December 3, 1945 by attorney Louis Quarles of the firm of attorneys Lines, Spooner and Quarles, attorneys for defendants General Motors Corporation and General Motors Sales Corporation, did the court permit excesses in abuse of discretion, or do the Federal Rules of Civil Procedure prohibit, on argument of one Motion, a moving party from making another motion orally.

25. Whether in hearing, the oral Motion and speaking suggestion in open Court December 3, 1945 by attorney Louis Quarles of the firm of attorneys Lines, Spooner and Quarles without Due Process of "Notice" to plaintiff and full hearing in open Court so that the Court could be fully advised in the premises, did the court deny the plaintiff

Due Process of Law, Equal Protection of the Law, an infringement on plaintiff's procedural rights under the Federal Rules of Civil Procedure or, may the superior corporate defendants transcend the procedural law of the Federal Rules of Civil Procedure.

26. Whether in the entry of Order dated December 4, 1945 said Order making false a record of the United States Courts, yet, in favor of defendants General Motors Corporation and General Motors Sales Corporation and defendants' attorneys' Lines, Spooner and Quarles, did the court by tyrannical excesses of abuse of discretion subscribe to falsifying the records of the United States Courts, or, is fraud and deceit and destroying good faith in the records of the United States Courts a legal act above reproach.

IV.

REASONS RELIED ON FOR ALLOWANCE OF WRIT.

1. The preponderance of evidence does not show the court resolved all doubts in favor of the plaintiff's consolidated complaint.

2. The final order of the Appellate Court is just another way of saying the plaintiff can be stripped of provisional remedies; and machinations under procedural rules can defeat substantive law. It is submitted that such a construction is in clear contravention of applicable decisions and authorities of record.

3. Re Anti-Trust Law and Clayton Act, Count 2, of consolidated complaint, there is nothing in the Statute, Section 15, Title 15, of the United States Code Annotated, requiring proof of actual private damage to be pleaded,

rather the law is clear in authorizing private persons claiming injury by reason of violation of the Anti-Trust Laws to sue for treble damages.

It is not contended the consolidated complaint is the evidence.

It is enough if it fairly appears from the record, as it does here, that a claim for relief under the authorization of substantive law is made and sufficiently informs the corporate defendants.

It is a question in each case whether there is erroneous representations in the allegations, and on this premise it is strongly urged the corporate defendants can not avail themselves of summary dismissal under procedural law, thus abridging the substantive law authorizing claims for relief by private persons for private damages suffered because of violations of the Anti-Trust Laws by other known persons or corporations. Under the substantive law of Section 15, Title 15, General Motors Corporation and General Motors Sales Corporation are not expressly declared exempt.

4. Re plaintiff's application for default judgments against the corporate defendants it is pointed out that plaintiff's affidavit was not met by any sworn statement of the corporate defendants traversing any one or all of the plaintiff's pleadings of existing facts, thus entitling the plaintiff to Judgment by Default against the corporate defendants.

American justice strongly urges, if not demands that a Judgment by Default be given to the plaintiff. The corporate defendants, well supported by counsel, should not be allowed to flaunt violations of the laws with impunity.

5. Re court taking disposition of Motion to Dismiss and to strike under advisement.

The Federal Rules of Civil Procedure, applicable to the proceedings in the trial court limits the time for answer. Federal Rule 12, says

The service of any motion provided for in this rule alters the time fixed by these rules for serving any required responsive pleadings as follows, unless a different time is fixed by order of the court:

(1) If the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading may be served within 10 days after notice of the court's action;

(2) If the court grants a motion for a more definite statement or for a bill of particulars, the responsive pleading may be served within ten days after the service of the more definite statement or bill of particulars.

The best reason is that the court taking the motion under advisement is not such a condition as set out under Rule 12.

6. The record is clear the dilatory pleas, interposed by the corporate defendants attorneys, especially in connection with their motion to dismiss and to strike, heard September 10, 1945 with respect to paragraphs 3, 4, 6, 10, 11, 12, and 13 are nothing but a sham in the out-dated form of a demurrer, and the corporate defendants, themselves, declare their reasons are premised on alleged technical defects in pleading. (Page 10, Certified Transcript of Proceedings, September 10, 1945.)

The Federal Rules of Civil Procedure clearly outlaw a dilatory defense premised on technicalities by saying,—

“No technical forms of pleading or motions are required.”

Rule 12 limits the defenses which may be made by motion. The Rules set forth:

“(b) How Presented. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim . . . shall be asserted in the responsive plead-

ing thereto if one is required, except that the following defenses may at the option of the pleader be made by motion:

- (1) lack of jurisdiction over the subject matter,
- (2) lack of jurisdiction over the person,
- (3) improper venue,
- (4) insufficiency of process,
- (5) insufficiency of service of process,
- (6) failure to state a claim upon which relief can be granted."

The best reason is that none of these specific grounds set forth are such as, the corporate defendants attorneys dilatory plea of "technical defect in pleading."

7. Abuse of Discretion.
8. Denial of Due Process of Law.
9. Denial of Equal Protection of the Laws.
10. Denial of Civil Rights.
11. False Records in the United States Courts:

Wherefore, your petitioner, Roy Grant, Jr., respectively prays that the Writ of Certiorari be granted, and that your petitioner may have such other and further relief in the premises as to this Honorable Court may seem meet and just.

I have the honor to remain,

Respectfully yours,

ROY GRANT, JR.,
Petitioner.

ROY GRANT, JR.,
P. O. Box 1695,
Milwaukee 1, Wisconsin.

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LINES, SPOONER & QUARLES
Attorneys at Law

EXHIBIT "A".

IN THE DISTRICT COURT OF THE UNITED STATES,
For the Eastern District of Wisconsin.

Roy Grant, Jr., doing business as No Sleet Windshield Heater Company,	} Plaintiff,	Civil Action No. 2295.
vs.		
General Motors Corporation, a cor- poration, and General Motors Sales Corporation, a dissolved corporation,	} Defendants.	

ORDER.

The motion of defendants in the above matter to dismiss and to strike having come on for hearing upon oral argument, and briefs having been submitted, and the opinion of the Court having been rendered thereon, It Is Hereby Ordered:—

I.

That the motion of defendant, General Motors Sales Corporation, that the bill of Complaint be dismissed as to it, on the ground that said corporation is dissolved, be and the same is hereby denied.

II.

That the motion of defendant, General Motors Sales Corporation, that Count I of the Complaint comprising

Paragraphs 1 to 13, inclusive, be dismissed as to it, on the ground that said corporation is not charged with any of the acts complained of therein, is granted, and the portion of the Complaint referred to be and the same is hereby dismissed as to said General Motors Sales Corporation.

III.

That the motion of both defendants that Count II of the Complaint (comprising Paragraph 1) be dismissed on the ground that it does not state a cause of action under the anti-trust laws is granted, and the portion of the Complaint referred to be and the same is hereby dismissed as to both defendants.

IV.

That upon motion of the Court, plaintiff shall have twenty (20) days within which he may move to amend the Complaint with respect to the word "unduly" appearing in Paragraph 5 of the first Count of the Complaint as set forth in line 13 on page 4 of the Complaint.

V.

That the motion of defendants to strike specific portions of the first Count of the Complaint is hereby granted or denied as follows:

A. As to Paragraph 3 denied.

B. As to the reference to the anti-trust laws in Paragraph 4 granted, and the words "and anti-trust laws" in the last line thereof be and the same are hereby stricken.

C. As to Paragraph 6 with respect only to a list of patents appearing on page 6 of the Complaint the same extending from and including the word "were" in line 1 and extending to the end of said page granted, and the portion referred to be and the same is hereby stricken.

D. As to Paragraph 10 granted, and said paragraph in its entirety be and the same is hereby stricken.

E. As to Paragraph 11 granted, and said paragraph in its entirety be and the same is hereby stricken.

F. As to Paragraph 12 granted, and said paragraph in its entirety be and the same is hereby stricken.

G. As to Paragraph 13 granted, and said paragraph in its entirety be and the same is hereby stricken.

VI.

That the defendants shall have twenty (20) days from the date upon which plaintiff shall amend his Complaint, or from the date of expiration of the time given plaintiff to amend in case plaintiff shall fail to amend his Complaint, as provided for in Paragraph 4 of this Order, within which defendants may file their answer.

Dated November 29, 1945, at 3 P. M.

F. RYAN DUFFY,

United States District Judge.

(Endorsed)

Civil Action No. 2295.

IN THE DISTRICT COURT OF THE UNITED STATES,

For the Eastern District of Wisconsin.

Roy Grant, Jr., doing business as No Sleet Windshield
Heater Company,

Plaintiff,

vs.

General Motors Corporation, a corporation, *et al.*,

Defendants.

Order on Defendants' Motion to Dismiss and to Strike.

Filed Nov. 29, 1945, B. H. Westfahl, Clerk.

EXHIBIT "B."

UNITED STATES DISTRICT COURT,
Eastern District of Wisconsin.

Roy Grant, Jr., doing business as
No Sleet Windshield Heater Com-
pany,

- Plaintiff,

vs.

General Motors Corporation and
General Motors Sales Corpora-
tion,

Defendants.)

Civil Action
No. 2295.

This day came the parties by their counsel and this cause came on to be heard upon the application of the plaintiff for judgment by default against defendants General Motors Corporation and General Motors Sales Corporation, was argued and submitted; and the plaintiff having in open court elected to stand on the first amended complaint and not file a second amended complaint; on consideration thereof.

It Is Ordered that said application be and the same hereby is denied with leave to said defendants to file their answers to amended complaint within twenty days.

F. RYAN DUFFY,

United States District Judge.

December 3, 1945.

(Endorsed)

Civil Action No. 2295.

UNITED STATES DISTRICT COURT,
Eastern District of Wisconsin.

Roy Grant, Jr., etc.,

Plaintiff,

vs.

General Motors Corporation and General Motors Sales
Corporation,

Defendants.

Order denying application of plaintiff for default judgment, with leave to defendants to file answer to amended complaint within twenty days.

Filed Dec. 3, 1945, B. H. Westfahl, Clerk.

EXHIBIT "C."

UNITED STATES DISTRICT COURT,
Eastern District of Wisconsin.

Roy Grant, Jr., doing business as No Sleet Windshield Heater Com- pany,	} Plaintiff,	Civil Action No. 2295.
<i>vs.</i>		
General Motors Corporation and General Motors Sales Corpora- tion,	} Defendants.	

ORDER.

(Filed Dec. 4, 1945, B. H. Westfahl, Clerk.)

Upon suggestion made in open Court December 3, 1945, by Louis Quarles, attorney for defendants above named, plaintiff, Roy Grant, Jr., being present appearing *pro per*, that plaintiff withdraw his Affidavit filed November 29, 1945 because of alleged scandalous matter appearing therein, and the Court's attention having been directed to such matter the same being indicated by the reporter's markings upon said Affidavit of said Roy Grant, Jr., filed in this matter November 29, 1945;

It Is Ordered on the motion of the Court that the matter indicated by the reporter's markings upon said Affidavit filed by said Roy Grant, Jr., November 29, 1945, be and the same is hereby stricken as scandalous.

Dated: December 4, 1945.

F. RYAN DUFFY,

United States District Judge.

EXHIBIT "D."

UNITED STATES CIRCUIT COURT OF APPEALS,

For the Seventh Circuit.

March 12, 1946.

Before:

Hon. William M. Sparks, Circuit Judge,

Hon. J. Earl Major, Circuit Judge,

Hon. Otto Kerner, Circuit Judge.

Roy Grant, Jr., D/B/A No Sleet
Windshield Heater Co.,
Plaintiff-Appellant,

No. 9013 *vs.*

General Motors Corporation & Gen-
eral Motors Sales Corporation,
Defendants-Appellees.

} Appeal from the District
Court of the United
States for the Eastern
District of Wisconsin.

It is ordered by the Court that the motion of counsel for appellees to dismiss this appeal be, and the same is hereby, sustained.

It is ordered and adjudged by the Court that this appeal be, and the same is hereby, dismissed, for the reason that the orders appealed from are interlocutory and not final.

EXHIBIT "E."

SUPREME COURT OF THE UNITED STATES,

No., October Term, 1946.

Roy Grant, Jr., d.b.a. No Sleet Windshield Heater
Company,

Petitioner,

vs.

General Motors Corporation, *et al.*

ORDER EXTENDING TIME WITHIN WHICH TO
FILE PETITION FOR CERTIORARI.

Upon Consideration of the application of the petitioner,

It Is Ordered that the time for filing a petition for
certiorari in the above-entitled cause be, and the same is
hereby, extended to and including August 11th, 1946.

(Signed) WILEY RUTLEDGE,
*Associate Justice of the Supreme
Court of the United States.*

Dated this 11th day of June, 1946.

EXHIBIT "F."

Office of the Clerk,
SUPREME COURT OF THE UNITED STATES,
Washington 13, D. C.

July 29, 1946.

Mr. Roy Grant,
Milwaukee, Wisconsin.

Dear Sir:

Replying to your letter of the 25th, you are advised that in view of the fact that the record in the case of Grant vs. General Motors Corporation, *et al.*, will not be printed at this time, the references in your petition and brief should be to the typewritten record.

Yours truly,

CHARLES ELMORE CROPLEY,
Clerk,

By E. P. CULLINAN,
E. P. CULLINAN,
Assistant.

EPC:tw
AIR MAIL

AUG 9

CHARLES ELMORE

IN THE
Supreme Court of the United States

OCTOBER TERM, A. D. 1945.

Docket No. **378**

ROY GRANT, JR.,

DOING BUSINESS AS

NO SLEET WINDSHIELD HEATER COMPANY,

Plaintiff-Appellant,

Petitioner,

vs.

GENERAL MOTORS CORPORATION,

A FOREIGN CORPORATION, ET AL.,

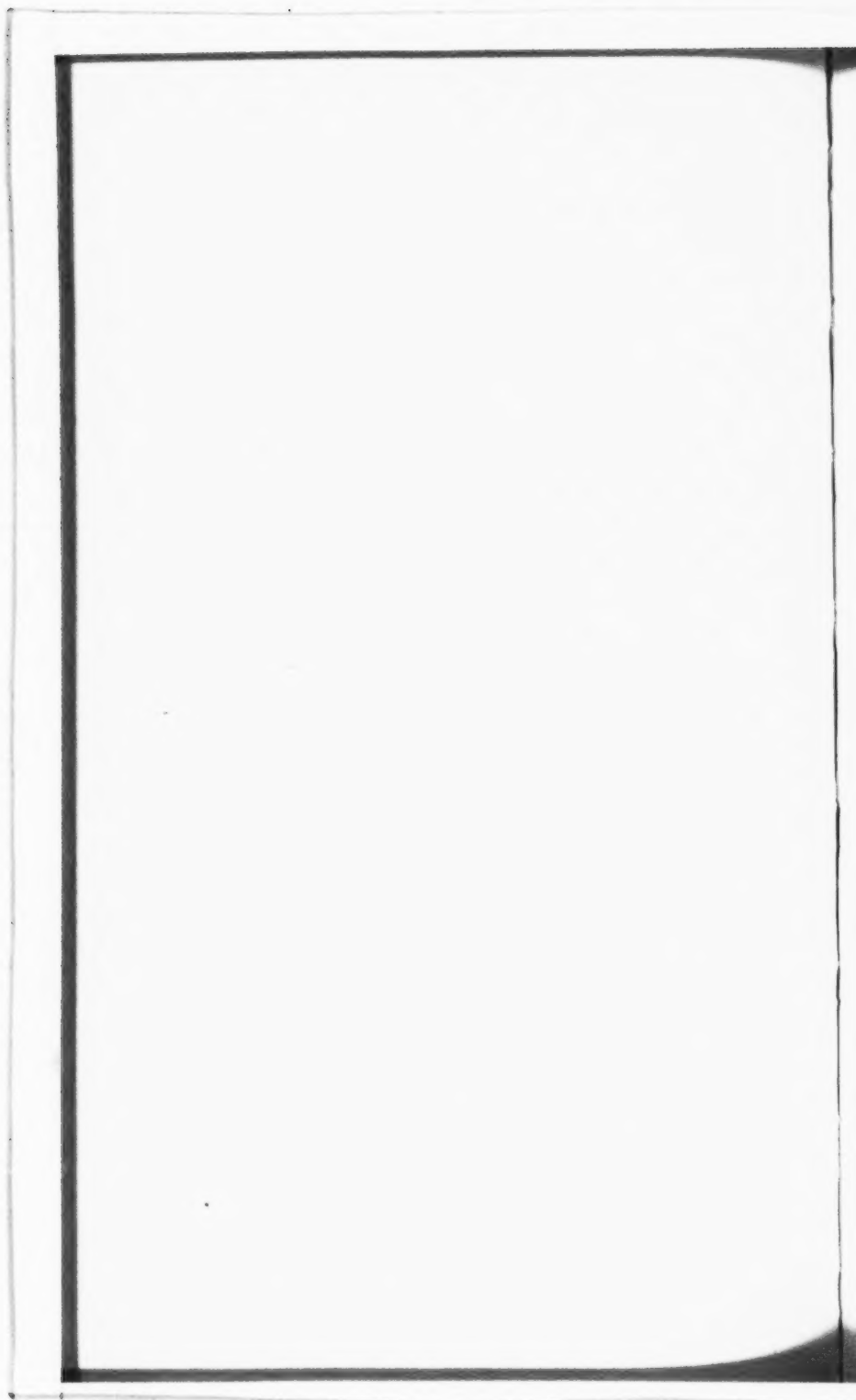
Defendants-Appellees.

PETITION TO CORRECT DIMINUTION OF RECORD.

ROY GRANT, JR.,

Milwaukee, Wisconsin,

Petitioner.



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IN THE
Supreme Court of the United States

OCTOBER TERM, 1945.

Docket No.

ROY GRANT, JR.,

DOING BUSINESS AS

NO SLEET WINDSHIELD HEATER COMPANY,
Plaintiff-Appellant,

vs.

GENERAL MOTORS CORPORATION,

A FOREIGN CORPORATION, ET AL.,

Defendants-Appellees.

**PETITION TO CORRECT DIMINUTION OF RECORD
AND AFFIDAVIT.**

*To the Honorable, the Chief Justice and Associate Justices
of the Supreme Court of the United States.*

May it please the Court:

I.

Your petitioner, ROY GRANT, JR., *propria persona*, pursuant to Rule 17 of the REVISED RULES OF THE SUPREME COURT OF THE UNITED STATES, entitled CERTIORARI TO CORRECT DIMINUTION OF RECORD, respectfully applies to this Court for a direct "Order", said order to the Honorable Clerk of this Supreme Court, directing, for proper inclusion, in the Printed Transcript of Record to be reviewed by this Court, the off-set photostatic copy imprints or exhibits of either existing,

co-pending, or subsequent art, duly pleaded and incorporated by reference and made applicable to the "Original" Complaint (pp. 5, 6) and amended Complaint (pp. 5, 6, 7) consolidated and filed in the Trial Court, in this instant action, *e. g.*,—

Heating Attachment

1. BECKER

	Applied for	Patent No.	Granted
BECKER	1/26/25	1-642-292	9/13/27
1 (a) and BECKER co-pending			

Glass Clearing Device

BECKER (co-pending)	8/1/27	1-778-882	10/21/30
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Clear Vision Sliding Shields

2. SIMPSON

March 23, 1925	SIMPSON , Assignor to Fisher Body Corporation		
June 25, 1926	FISHER , Assignor to General Motors Corporation		
SIMPSON	3/25/25	1-604-760	10/26/26

Means for Removing Snow & Ice from Windshields

3. SPENCER

Sept. 30, 1925	SPENCER , Assignor to General Motors Corporation		
SPENCER	10/10/25	1-694-757	12/11/28

Motor Vehicle

4. MILLER

MILLER , Assignor to Packard Motor Car Company, a Michigan Corporation			
MILLER	4/21/37	2-176-143	10/17/39

Your petitioner, respectfully makes a further application for the said direct Order of this Supreme Court of the United States to be extended and to be made applicable for the correction of the certified record on appeal of the pleadings, judgment, and other papers in the trial court, certified, by the clerk of this trial court after comparison with the originals now on file and remaining of record, as true copies although the said record of true copies, so certified, has been made fraudulent and counterfeit,—

1. by illegal meddling, tampering and alteration resulting in modification and change of certain parts and thereby changing its force as legal evidence,
2. by mutilation thereby destroying or removing a material part so as to render the said record imperfect,
3. by improper official interference by the clerk of the trial court to influence improperly either on appeal or review the "true" merits in this instant action in open defiance of certain criminal sections of the United States Code of Laws pertinent to making false a record of the United States Courts,

all of which illegal misrepresentations, seemingly at least covering up official neglect and favorable only to the defendants' side of the action, are false representations unfavorably prejudicial to this plaintiff on review, and

Further, the said order to be made applicable for the substitution of exhibits or true copies contained in the sheaf of documents, accompanying this petition to this Supreme Court and incorporated herein by reference and made applicable hereto, to succeed as a natural necessity or take the place of the copies certified and meant to signify the semblance of "true" copies **yet** certain of the copies so certified and self-involving making false a record of the United States Courts, and the said certification by the clerk of the trial court a deliberate self-evident proposition, presumptively official, notwithstanding otherwise the obvious

exhibition of capricious, tyrannical, self-executing villainies showing plainly,—

- (a) **discrediting abuse of falsely assumed authority resulting in the imperfect discharge of official obligations;**
- (b) **a deliberate refusal to certify a true record;**
- (c) **the actual certification of a false record under the seal of the District Court of the United States.**

In consequence thereof the reasons hereinbefore cited, either in the singular or in the conjunctive, each portion of the record now offered is subject to the following exception taken either, to the original analogous copy, certified, and now on file or, withheld from the certified record by the clerk of the trial court:—

Your petitioner strongly urges the correction and substitutions of certain parts of the certified record on appeal, filed January 28, 1946 with the Appellate Court, based on observations stated herein and for all practical purposes diligently noted on examination of the certified record in the clerk's office of the Circuit Court of Appeals for the Seventh Circuit, Chicago, Illinois on January 30, 1946, and the notations thus obtained were rechecked with the original copies on file in the clerk's office of the District Court, Milwaukee, Wisconsin on February 4, 1946.

An Emergency Petition for Correction of the Record directed to the said illegal misrepresentations was duly filed by the plaintiff-appellant with the Appellate Court on February 14, 1946 to which the Appellate Court entered on February 21, 1946 an "Order" denying the aforesaid petition.

Thereon receipt of the said "Order" a Petition for Rehearing of plaintiff's Emergency Petition for Correction of the Record was diligently prepared and duly filed on March 2, 1946 to which the Appellate Court entered on March 6,

1946 an "Order" overruling the plaintiff-appellant's Petition for Rehearing.

The constituent parts or segments of the "designated" COMPLETE OFFICIALLY KNOWN RECORD AND ALL THE PROCEEDINGS AND EVIDENCE (Rule 75 (d), F. R. C. P.) certified to the Appellate Court to which specific exceptions are directed are as follows:

The numbered items following are correspondingly numbered with mutually related items in plaintiff's designation of COMPLETE OFFICIALLY KNOWN RECORD dated January 18, 1946 or, numbered in their chronological order.

I

Item No.

2. May 12, 1945 Letter, Grant to U. S. Marshall

The substitution of the proffered exhibit should be granted for the reason the copy certified as a pretended "true" copy is defective, the top has been cut off and the malicious destruction is further seen by noting the act of sabotage whereby the letterhead printing has been struck. This item as certified is nothing less than the abuse of intricate undue influence illegally practiced in the clerk's office resulting in, shabby and despicable representation of the plaintiff and, the uttering of a false paper, the paper made false by forgery and counterfeiting as practiced on a copy of the original instrument of public record.

II

Item No.

4. May 17, 1945 Letter, Grant to clerk Federal District Court.

The substitution of the proffered exhibit should be granted for the reason the certain copy certified as a "true" copy is only a certified false spurious pretense as the "true" copy has been made defective, fraudulently by altering, after the record on appeal under seal was deposited with the clerk of the District Court and thereafter uttered and published under the seal of the District Court with intent to defraud the United States.

Alteration to the top of the letterhead resulting in the fraudulent lack of this essential to completeness and thereby the shabby, despicable and spurious representation of this plaintiff is deemed a forgery by alteration, erasure, obliteration, and a spoilation of certain parts of this instrument, **all of which it is strongly urged has not been prompted by honest motives, in good faith, and all of which is irreconcilably opposed to and operates not impartially to this plaintiff, with intent to defraud and/or to incite vexatious and troublesome correctional legal proceedings for the protection of plaintiff's inalienable civil rights against the uttering or publishing of forged paper and the forgery and counterfeiting making false a public record of the United States courts, and in addition thereto, the scheme or artifice having been devised or intended to defraud, the manifest overt act was perfected, publicly exhibited, and completed by transmitting such said paper through the United States Mail, to the Circuit Court of Appeals for the Seventh Circuit, Chicago, Illinois, for the purpose of review and determination on appeal by judicial officers of the United States Courts, in violation of the statutory prohibitions of the United States Postal Laws and Regulations,**

and the said violations of the United States Code of Laws is now being called to the official attention of appropriate authorities, i. e., the Honorable Justices of the Supreme Court of the United States.

III

Item No.

6. May 18, 1945 Receipt for Service Fees, U. S. Marshall to Grant.

The inclusion in the record on appeal of this designated and now proffered exhibit should be granted for the reason the plaintiff strongly urges its inclusion fulfills the purpose of perpetuating in the entire record designated and sent up for review **the exact state of facts** respecting official neglect or delinquency in the office of the Clerk of the District Court under the Federal Rules of Civil Procedure, Rule 4 (a),—

“Upon the filing of the complaint the clerk shall **forthwith** issue a summons and deliver it for service to the Marshal or to a person specially appointed to serve it.”
(Emphasis supplied)

This matter is actually a part of the record below and it is urged as such in the courts above, it being so for the purpose of review of the entire record to establish the manifest prejudice foisted, by an officer of the United States District Court, on this plaintiff in the pursuit of American Justice in the United States Courts.

The unauthorized withdrawal and/or avoidance by the clerk of the District Court of this certain matter, a part of the whole of plaintiff's DESIGNATION OF COMPLETE OFFICIALLY KNOWN RECORD AND ALL THE PROCEEDINGS AND EVIDENCE, is subject to all the opposition set forth in the second paragraph of item 4, preced-

ing, the opposition being incorporated herein by reference is made applicable hereto, to the whole, complete record, thus falsified, on appeal from the District Court, and for the further reason, in addition, the overt act completed by the said clerk, in addition to the opposition incorporated herein by reference, illegally sabotages the duty of the appellant (Rule 11, C. C. A., 7th Cir.) to file the (complete) certified Transcript of Record designated by appellant pursuant to Rule 75 (d), Federal Rules of Civil Procedure; the said opposition beginning with the words,—

“ * * * all of which it is strongly urged has not been prompted by honest motives, in good faith, * * * ”

and the opposition ending with the words,—

“and the said violations of the United States Code of Laws is now being called to the official attention of appropriate authorities, *i. e.*, the Honorable Justices of the Supreme Court of the United States.” (pp. 6 and 7)

IV

Item No.

9. May 21, 1945 Petition, to Federal Court re Service, Robb and Robb, and J. F. Robb.

Your petitioner herein, urges that the writing of the clerk of the District Court placed on Page 2 of this document, to wit,

“The foregoing petition is denied”

“F. RYAN DUFFY
Judge”

be expunged, struck out, or erased for the reason the official neglect and/or official delinquency, self-envolving the said clerk by the attempt, *now for then*, to overcome the said official deficiency of due “Notice”, pursuant to Rule 77 (d), Federal Rules of Civil Procedure, of the judgment of the trial judge, is a despicable and spurious representation and

a mockery of Justice by the said clerk functioning in an unauthorized judicial capacity for the fraudulent purpose of falsifying the COMPLETE OFFICIALLY KNOWN RECORD (duly known officially by this plaintiff) and/or this separate part of the whole record, by forcing out as inferior the total deficiency and/or prevailing lack of said due "Notice" and accomplishing thereby, in effect, a manifest failure of justice, resulting in this plaintiff being made voiceless, by secretly foreclosing to this plaintiff a provisional remedy or substantive right, premised on the statutory section 118 of Title 28 of the United States Code of Laws, by means of a final order accordingly entered without obligatory due procedural "Notice" thereof, (U. S. C. A., Title 28, Section 118.)

V

Item No.

10. May 28, 1945 Plaintiff's Narrative Form, of argument and opposition before the Court, May 28, 1945, on Motion of Morsell and Morsell and Arthur L. Morsell, and 11 pages of exhibits.

On this day May 28, 1945, as on another day subsequently, June 11, 1945, the United States District Court for the Eastern District of Wisconsin was without the services of an official stenographer. For that reason the narrative form (Rule 75 (c), F. R. C. P.) of evidence before the Court in opposition to the adverse party has been filed by this plaintiff for inclusion in the COMPLETE OFFICIALLY KNOWN RECORD AND ALL THE PROCEEDINGS AND EVIDENCE.

No objection was interposed by the defendants-appellees, General Motors Corporation or General Motors Sales Corporation, represented by counsel, to the inclusion in the said record of this document in narrative form.

The inclusion in the record on appeal of this designated and now, again, proffered exhibit should be granted for the reason the plaintiff, the appellant, strongly urges its inclusion fulfills the purpose of perpetuating in the entire record designated and sent up for review, by the appellant, **the exact state of facts** provided for under Rule 75 (c), Federal Rules of Civil Procedure. Otherwise, unlawful procedural discrimination would prevail.

Other opposition, incorporated herein by reference and made applicable hereto, is the references cited in paragraphs 2 and 3 of item No. 6 preceding. (pp. 7 and 8)

VI.

Item No.

- | | |
|----------------------|--|
| 14(a). June 11, 1945 | Defendants' designation, an unsigned , pretense of a Court Order, numbered 128. |
| 21(a). July 2, 1945 | Defendants' designation, an unsigned , pretense of a Court Order, numbered 176. |

Your petitioner opposes the inclusion, in the COMPLETE OFFICIALLY KNOWN RECORD, of each of these two aforesaid pretenses, falsely professed as court orders in defendants' designation, although accordingly sinisterly numbered respectively 128 and 176 and exhibited therefore as sub-normally entered, for the reason,—

1. The fatally defective pretense of a falsely professed paper by defendants' attorneys as a court order **is unsigned**. Without the signature of the trial judge the pretense could only be a fatally deficient order lacking the signature of the trial judge, the signature necessary to signify that the writing which precedes accords with the judge's wishes or intentions.

2. In the alternative, should the opposition stated in ground one (1) aforesaid be overruled, then in deference to the opinion of this Supreme Court, your petitioner further strongly objects respectively to inclusion in the COMPLETE OFFICIALLY KNOWN RECORD of these abnormal objects classified as court orders, if any, for the reason of—

the total intensive and ungovernable impropriety of official neglect and official delinquency premised on due "Notice" prescribed by Rule 77 (d), Federal Rules of Civil Procedure.

VII.

Item No.

26. September 10, 1945 Plaintiff's Exhibit, of "implied" amended complaint, "implied by defendants Motion To Dismiss and To Strike.

It is respectfully urged before this court that this certain document and evidence should be rightfully reinstated in the COMPLETE OFFICIALLY KNOWN RECORD.

This document was deposited under seal with the clerk of the District Court together with copies of all other documents set forth in the plaintiff's designation.

This evidence was before the trial court during hearing in open court on September 10, 1945. (Tr. of Proceedings, Sept. 10, 1945 pp. 13, 14.)

No objection was interposed by the defendants-appellees, General Motors Corporation of General Motors Sales Corporation, represented by counsel, to the inclusion in the said record of this document.

Plaintiff offers and puts in opposition the obvious fact, of the intemperate and injudicious usurpation, **without**

right, of the functions, powers, rights and prerogatives of the authorized judiciary by the said clerk and accordingly, the false personation of falsely assuming to be vested with the powers of the judiciary by the disobliging and void external disguise of official duty under the seal of a District Court of the United States resulting in the fraudulent concealment and/or fraudulent removal of any paper designated by the plaintiff on appeal.

On the premises preceding, your petitioner strongly objects to the withdrawal from the whole record, by the clerk of the District Court for the Eastern District of Wisconsin of this certain paper deposited with the clerk under seal by your petitioner herein, the plaintiff and plaintiff-appellant. This certain paper thus in the official custody of the said clerk has been willfully and unlawfully concealed and the clerk did cause this certain paper to be fraudulently removed from the COMPLETE OFFICIALLY KNOWN RECORD and in consequence the records of the United States Courts have been falsified, and the fraud thus set forth will fraudulently with intent unlawfully injure the rights and interest of this plaintiff, your petitioner, in the review of the COMPLETE OFFICIALLY KNOWN RECORD.

Other oppositions, incorporated herein by reference and made applicable hereto, is the references cited in paragraphs 3 and 4 of item No. 6. (pp. 7 and 8)

VIII.

Item No.

29. November 19, 1945 Order for
*"Entry upon Court's
 Opinion"* by Lines, Spooner
 and Quarles, Attorneys
 for defendants General
 Motors Corporation and
 General Motors Sales Cor-
 poration,
including notice thereof.

Your petitioner respectfully urges that the copy certified be struck from the record certified by the clerk of the District Court under the seal of said court and the proffered copy reproduced photostatically in the record for the reasons:

1. That on January 18, 1946 your petitioner, the plaintiff in this instant action in the District Court, filed with the clerk of the trial court his sworn designation of COMPLETE OFFICIALLY KNOWN RECORD including the complete contents of copies of all papers and transcriptions designated in the record, excepting only,—
 - (a) item No. 44, Notification by clerk to defendants of appeal, and
 - (b) item No. 46, Statements of Points.
 as set out in the plaintiff's affidavit re Certification of Service attached to the said designation.
2. Thereafter during the week of Monday, January 21, 1946 the office of the clerk of the said District Court contacted this plaintiff on several occasions attempting to explain and assert the total absence of any original papers so identified as being on file.
3. On January 26, 1946, during the morning thereof, the plaintiff filed his Statement of Points with the

clerk of the District Court, B. H. Westfahl in person.

4. On January 28, 1946, the said clerk having previously obtained, ex parte, a court order for extending the time for filing the record with the Appellate Court, **the clerk at his ultimate convenience forwarded**, by United States Mail, parcel post the record of copies, certified as "true" copies of the originals on file and remaining in the clerk's office.
5. Your petitioner's personal examination of the record, as certified, in the office of the clerk of the Appellate Court on January 30, 1946 revealed the overt act involving the most reprehensible act of substitution worthy of a judgment of condemnation, worthy of the exercise of the supervisory powers of this Supreme Court, the said overt act involving not only grave infringement of the moral sentiment of the people but also serious infringement or violation of statutory prohibitions; the said overt act of substitution of a copy of the instrument described **furnished by the defendants attorneys**, signed lightly in pencil (see copy on file) by Louis Quarles' covetous co-worker David A. Fox; the substituted copy, prepared by the defendants, to avoid the original copy of record, to alter the conclusive evidence thus taken away, all of which alteration with fraudulent intent does injure the rights and interest of this plaintiff in the review of the COMPLETE OFFICIALLY KNOWN RECORD.

Other opposition, incorporated herein by reference and applicable hereto, is the references cited in paragraphs 2 and 3 of item No. 6 preceding. (pp. 7 and 8)

IX.

Item No.

30. November 23, 1945, Plaintiff's Brief, in opposition to Defendants' Attorneys' Lines, Spooner and Quarles, Louis Quarles and David A. Fox "*Entry upon Court's Opinion*", and Certification of Service.

This document was deposited with the clerk, in person, of the District Court on November 24, 1945 during the morning thereof. Subsequently, a hearing came on in open court, November 26, 1945.

Thereafter on February 4, 1946, at the time of re-checking, in the District Court clerk's office, copies and the notations taken from the record certified by the said clerk to the Appellate Court, it was observed that on the cover of this certain document the descriptive words of the plaintiff, *e.g.*, "Order of Entry" had been taken away, altered, falsified, or otherwise avoided on the record by mutilation, obliteration, with intent to mutilate, obliterate, destroy said part of the plaintiff's document deposited with the clerk of the United States District Court and fraudulently substituted in the writing of the said clerk are the two words, set out in ink, "Entry" and "Order" thereby fraudulently changing the structure and signification of the words from

Order of Entry

to the structure and signification substituted by the clerk to

Entry of Order

Your petitioner, although strongly urging that the document be considered in the light of interpretation as reasonably placed on the words used by the plaintiff, in this, his document, nevertheless, prays that an order of this Supreme Court of the United States set forth a mandate requiring the said substituted words be placed on the copy certified to this court as a true copy of the original on file in the office of the clerk of the District Court and that a proper reference be made to the said substituted words indicating the substitution, alteration, mutilation and obliteration as the overt act of the clerk of the said District Court.

X.

Item No.

33. November 29, 1945 Affidavit and Answer to Order of Court.
(a) Affidavit.
(b) Affidavit-Extension of time.
(c) Certification of Service.

This certain instrument has been certified, under the seal of the District Court by the clerk thereof in its present form in the record on appeal as a "true" copy so certified after comparison with the originals now on file and remaining of record in said Court.

There is a substantial material deficiency existing with respect to this definite document and the said certification thereof and the document in the form certified does not reveal the contents of the "true" analogous copy on file in the clerk's office as determined by your petitioner's personal examination of this certain document on file in the said clerk's office on February 4, 1946.

On November 26, 1945, your petitioner now, then the

plaintiff, duly served, on the defendants General Motors Corporation and General Motors Sales Corporation and duly filed with the District Court, an Application for Judgment by Default, therein said application were pleaded the necessary and proper grounds premised on existing facts entitling this plaintiff to a Judgment by Default, the said necessary and proper grounds pleaded within five separate distinct counts, each self sufficient, and to which a duly applicable affidavit was directed.

On December 3, 1945, the plaintiff was forced to accept a restricted hearing in open court in the United States District Court, Milwaukee, Wisconsin. The deforcement constraining this plaintiff was impelled, driven along forward, and cast with impropriety on the plaintiff by the undue influence of the trial judge **and obviously**, not in the interest of justice or, on grounds of relief to which the said defendants were entitled, nevertheless the denial of the definitive, statutory, substantive right of Due Process of Law and Equal Protection of the Laws was foisted upon this plaintiff-petitioner because the plaintiff had exercised an inalienable civil right in the said United States District Court only to receive from the trial judge thereof oppression and intimidation of his civil rights to impede the due course of justice and the denial of equal protection of the laws and to all of which the trial judge applied his talents to do harm and injure the plaintiff's said civil rights and the fair determination of the plaintiff's rights to his verified claim for relief.

The illegal consequence during the aforesaid restrained hearing, of plaintiff's applications for Judgment by Default against defendants General Motors Corporation and its wholly owned subsidiary General Motors Sales Corporation represented at said hearing by one David A. Fox, was the pretentious courageous, magnanimous, enterprising interposition, **without "Notice"**, of the brave, gallant,

valorous spirit in person, of one Louis Quarles, a second (2nd) representative in court for the said defendants, who, thus inopportunately displayed despotic haughty indifference to fairness, **yet**, assumingly disdaining self professedly the implied dishonor, injustice, meanness or impropriety of others notwithstanding he, then, formed a two to one block unreasonably solicitous in high pressuring the trial judge, their social compact fraternity colleague.

Thus, the said enterprising interposition, **without "Notice"**, of the said one, Louis Quarles was for the purpose of submitting his own personal oratory, otherwise a motion **nonprivileged** at that time under the Federal Rules of Civil Procedure, to effect the withdrawal by imitable order of the Court of plaintiff's affidavit and answer to the Court filed with Madam D. M. Rynders, Secretary to the trial judge at 9:30 A. M., on the 29th day of November, 1945, on which affidavit, the one, Louis Quarles, said in open court,—

"I have underscored certain parts in red." (Tr. of proceedings, Dec. 3, 1945, page 15).

The final result of this shrinking back from the inherently self confessedly contradiction of the otherwise professed propriety due the court, from one presumptively reputable yet seemingly specially trained and long skilled in the fine choice of contemptible mendacious language that only **certain ones** skilled in the law would use, was an order prepared for the trial judge by the said defendants' attorneys and the verbatim adoption by the trial judge of the said order prepared by the defendants' attorneys, to-wit,—

ORDER.

Upon suggestion made in open Court December 3, 1945, by Louis Quarles, attorney for defendants above named, plaintiff, Roy Grant, Jr., being present appearing pro per, that plaintiff withdraw his Affidavit filed November 29, 1945 because of alleged scandalous matter appearing therein, and the Court's attention having been directed to such matter the same being **indicated by the reporter's markings**, upon said Affidavit of said Roy Grant, Jr., filed in this matter November 29, 1945;

IT IS ORDERED on the motion of the Court that the matter, **indicated by the reporter's markings** upon said Affidavit filed by said Roy Grant, Jr., November 29, 1945, be and the same is hereby stricken as scandalous.

(Emphasis supplied)

/S/ F. Ryan Duffy,
United States District Judge.

Dated: December 4, 1945.

5:vp

On January 30, 1946, this said instrument was duly examined in the office of the Clerk of the Circuit Court of Appeals for the Seventh Circuit, Chicago, Illinois, and the examination revealed the copy of record, certified as a "true" copy by the clerk of the trial court, under the seal of that court, after comparison with the originals now on file and remaining of record, was a false, spurious, deceptive copy as certified by the clerk under the seal of the trial court **because of the lack of any red underlines** and accordingly therefore,—

- (a) the clerk of the trial court using the seal of the said District Court has deliberately refused to certify a true record and aided or abetted in the making false the records of the United States Courts by encouraging, by instigating, and by

countenancing the certification, over his name and under the seal of the District Court, of a document of record in this instant action which does not materially compare with the original now on file and remaining in his office, and

- (b) the said clerk under said certification and seal has actually certified a false record
- (c) the said officer of the United States Courts, the clerk of the said District Court, thereby, has knowingly made false acknowledgment, certificate, or statement concerning the taking of an oath or affirmation by himself, the said clerk, with respect to record on appeal, concerning which an oath or affirmation is required by law or regulation made in pursuance of law.

On the premises foregoing and the overt act involving a most reprehensible act of avoidance concerning a document under seal of a United States Court, by the clerk thereof, **as known officially**, and again, the injudicious said overt act worthy of a judgment of condemnation, worthy of the supervisory powers of this Supreme Court of the United States, the said overt act altering the conclusive evidence thus fraudulently taken away with the fraudulent intent to injure the rights and interest of this plaintiff in the review of the **COMPLETE OFFICIALLY KNOWN RECORD**,—

IN CONSIDERATION THEREOF, your petitioner prays that an order of this Supreme Court of the United States issue and set forth a mandate demanding forthwith from the clerk of the trial court the underlined portions set out in red on the original copy by one, Louis Quarles, be made known to the Honorable Clerk of this Supreme Court, and that the said red underlined portions be ordered set out with similarity, in the printed Transcript of Record.

IN THE ALTERNATIVE, to facilitate correction of

the record, your petitioner respectively suggests that the analogous copy, within the sheaf of exhibits, be rightfully substituted for the copy of record certified by the clerk of the District Court. The red lines underscoring the certain parts of the said document were carefully noted in the office of the clerk on February 4, 1946 on examination of the original copy of record in the said clerk's office and thereafter have been set out on the copy **now** submitted.

Other opposition, incorporated herein by reference and made applicable hereto, is the references cited in paragraphs 2 and 3 of item No. 6 preceding. (pp. 7 and 8)

XI.

Item No.

34. November 29, 1945 Order of
 Defendants' Attorneys'
 Lines, Spooner and
 Quarles, Louis Quarles
 and David A. Fox "*En-
 try upon Court's Opin-
 ion*", this order **signed**
 by Judge F. Ryan Duffy.

In connection with this document your petitioner can not too strongly yet respectfully urge, that in the interests of justice together with the full protection of your petitioner's civil rights before this Supreme Court, the court of last resort, it is wholly necessary, for abundant simplicity,

- (a) that this described document be set forth in the printed Transcript of Record as an actual offset photostatic reproduction of all the pages therein, and without the reprehensible destruction, obliteration, and mutilation of the top of page "one" of said document **whereon** at the top is the clear

impression by printing of the **defendants**, General Motors Corporation and General Motors Sales Corporation **attorneys**, to wit:

**LINES, SPOONER & QUARLES,
ATTORNEYS AT LAW.**

Your petitioner's purpose, for strongly urging the actual offset photostatic reproduction, of the whole of this said document in the original "true" form, is the **superior recording** of the abundantly clear and preponderance of the elements of conclusive evidence of fraud and collusion, practiced by the defendants attorneys to defraud this plaintiff and obtain an object forbidden by law, in conjunction with the vitiating fatal omission of truly honest and upright official duty of the trial judge thus aiding the defendants attorneys to defraud this plaintiff, to all of which, the clerk of the trial court, in certifying a mutilated document as a "true" copy of the original, did further aid and abet the fraud and collusion of the defendants attorneys and the trial judge to defraud this plaintiff and deny this plaintiff *equal protection of the laws*.

The simplification, of clearly presenting the issues the plaintiff will bring before this Supreme Court for review, would abate and/or diminish, and the understanding be made slower, by taking away by printing otherwise in any other form and anything less than the full offset photostatic reproduction of the "true" original copy of record **as is** in the trial court, from which said original copy the analogous proffered photostatic copy within the sheaf of documents was made and which is incorporated by reference and made a part herein and so urged as the "true" substitute of the original, originally on file in the office of the clerk of the trial court.

Other opposition, incorporated herein by reference and made applicable hereto, is the references cited in paragraphs 2 and 3 of item No. 6 preceding. (pp. 7 and 8)

3.

Firmly and permanently involved, also, in the said overt reprehensible act of avoidance in this plaintiff's record on appeal or review as certified by the said clerk under the seal of the District Court for the Eastern District of Wisconsin are the infringements or violations of the prohibitions set forth in the criminal statutes of the United States Code of Laws, to wit:

The criminal violations set forth are premised on the conclusive facts,—

- (a) that under date of January 28, 1946 the clerk of the said District Court of the United States placed or caused to be placed in the United States Mail a letter addressed to this plaintiff, Roy Grant, Jr., wherein said letter the said clerk made a demand for the amount of \$45.05 as the fee of said clerk for making the record (on appeal) as per bill enclosed with said letter;
- (b) that on January 28, 1946 the plaintiff appeared in the office of the said clerk and at that time was presented a duplicate copy of the bill set forth under item "a" preceding to which said bill an extra additional charge was added, *e.g.*

Parcel Post \$0.15 (15¢)

to reimburse the said clerk for the expense of forwarding via parcel post, United States Mail, the record on appeal, of writings of pleadings, judgment and other papers in this instant action, certified by the said clerk to the Circuit Court of Appeals for the Seventh Circuit, Chicago 10, Illinois. The total amount of forty-five dollars and twenty cents (\$45.20) was paid then, forthwith.

CRIMINAL VIOLATIONS.

1. (Criminal Code, section 215.)

The clerk of the said District Court of the United States, using the official office of the said clerk of the District Court of the United States and the Post Office Department of the United States, with intentional efforts to despoil the said plaintiff's record on appeal, did certify to a false record under the seal of the United States District Court for the Eastern District of Wisconsin, and thus, the said clerk having devised or intending to devise a scheme or artifice to defraud this plaintiff and the Honorable Justices of the High Courts of the United States as Judicial officials of the United States, by means of a spurious record on appeal, did obtain money from this plaintiff to the amount of Forty-five dollars and five cents (\$45.05), in addition to fifteen cents (\$0.15) for a total amount of Forty-five dollars and twenty cents (\$45.20) by means of false or fraudulent pretenses, representations, of a certified false record on appeal as originally furnished, sent or forwarded to the said Appellate Court and subsequently the said certified record sent or forwarded to this Supreme Court of the United States, said false certified record a spurious article on which the said clerk did demand and obtain money from this plaintiff for the total amount of Forty-five dollars and twenty cents (\$45.20) by and through his (clerk's) letter, identified aforesaid as dated January 28, 1946, which the said clerk for the purpose of executing such said scheme or artifice did place or cause to be placed, the said letter signed in the handwriting of the said clerk, addressed to this plaintiff residing within the United States, in an authorized depository for mail matter, to be sent or forwarded or delivered by the post office establishment of the United States, and thus knowingly did cause the said letter to be delivered by mail according to the

direction thereon and at the place at which it was directed by the said clerk to be delivered to this plaintiff to whom it was addressed.

2. (Criminal Code, section 221.)

The clerk of the said District Court of the United States, on January 28, 1946 did cause the heretofore described copies, of writings on file in his official office in this instant action together with his writing of certification including his signature thereto, to be enclosed in a wrapper and thereafter the said clerk did cause the package containing the said writings of record to be deposited with the Post Office Establishment of the United States in the Federal Building, Milwaukee, Wisconsin, and did cause the said package to be admitted to the mails as fourth (4th) class mail for which a parcel post fee of only 15¢ was paid for parcel post stamps affixed thereto said package weighing approximately 4 pounds (lbs.) and 8 ounces, as the "true" higher class of the inclosed matter within said package was knowingly concealed by the said Clerk, or his duly accredited agent, from the established United States Postal authorities on January 28, 1946, when the said clerk deposited or caused the said inclosed matter, for which a higher first class rate is duly prescribed, to be deposited for conveyance by mail at the lower class parcel post rate, the said package addressed for delivery to Circuit Court of Appeals for the Seventh Circuit, Chicago 10, Illinois.

Other opposition, incorporated herein by reference and made applicable hereto, is the references cited in paragraph 2 of item No. 4 preceding. (pp. 6 and 7)

CONCLUSION.

It is submitted that each of the eleven objections, under section 2, and the criminal violations set forth under section 3 hereinbefore with respect to the criminal statutes of the United States Code of Laws, presented herein are unlawful determinations by persons in their official capacity as duly authorized officials or officers of the United States Courts who have successfully worked, heretofore, their malice on this plaintiff in the United States Courts, in clear conflict with the applicable principles under American Justice and promulgated procedure under the Federal Rules of Civil Procedure, for the purpose of ultimately defeating your petitioner's full statutory redress for violations of this plaintiff's substantive civil rights which were breached by the said defendants herein.

It is further submitted that the determination of the validity of the eleven objections of excesses of usurped jurisdiction and criminal abuses hereinbefore set forth is of the greatest importance to American Jurisprudence in connection with the proper and appropriate business and/or duty of this Supreme Court of the United States to interpret and to render to any and/or every person his just due.

The questions are substantial and until, the said questions and/or propositions, now expressing fraudulent practice in the United States Courts, are decided by this Supreme Court, your petitioner cannot know what ultimate facts, either, true or fraudulent, will receive positive acceptance by the courts for the purpose of the case and therefore otherwise met subsequently, regardless, of the negative, vitiating, fraudulent interposition, of falsity professed as truth, transcending truth.

Wherefore, your petitioner, Roy Grant, Jr., prays that a mandate be issued out of and under the seal of this superior Honorable Court, directed to the Honorable Charles

Elmore Cropley, Clerk of this Court, commanding the proper inclusion in the printed Transcript of Record in the cause, on the docket of the United States District Court for the Eastern District of Wisconsin, Docket No. 2295, ROY GRANT, JR., doing business as NO SLEET WINDSHIELD HEATER COMPANY, Plaintiff, vs. GENERAL MOTORS CORPORATION, a foreign corporation, GENERAL MOTORS SALES CORPORATION, a dissolved foreign corporation, WHEELER, WHEELER and WHEELER, a firm, and WARREN G. WHEELER and S. L. WHEELER, LECHER, MICHAEL, SPOHN and BEST, a firm, and JOHN W. MICHAEL and MILES HENNINGER, MORSELL and MORSELL, a firm, and ARTHUR L. MORSELL, ROBB and ROBB, a firm, and J. F. ROBB, ELWIN A. ANDRUS, Defendants, the reproduction of certain patents hereinbefore set forth in section one, and the Order to further command, the inclusion by substitution or by reinstatement of the exhibits incorporated herein and hereinbefore set forth in,—

Section 2.

Items, numbered, 2, 4, 6, 10, 26, 30, 33, and

expunge from the record,—

Items, numbered, 9, ~~14, 15,~~ and *14(a), 21(a), and*

reproduce by offset photostatic reproduction as set forth
Items, numbered 29 and the Court Order therein dated
December 4, 1945 and item 34, and

that your petitioner, and the people of the United States, have such other and further relief in the premises as to this Honorable Court may seem meet and just, including costs.

I have the honor to remain,

Respectfully yours,
ROY GRANT, JR.,
Petitioner.

Mail Address:
P. O. Box 1695,
Milwaukee 1, Wisconsin.

IN THE
Supreme Court of the United States

OCTOBER TERM, A. D. 1945.

Docket No.

ROY GRANT, JR.,

DOING BUSINESS AS

NO SLEET WINDSHIELD HEATER COMPANY,

Plaintiff-Appellant,

Petitioner,

vs.

GENERAL MOTORS CORPORATION,

A FOREIGN CORPORATION, ET AL.,

Defendants-Appellees.

STATE OF WISCONSIN, }
 MILWAUKEE COUNTY. } ss.

**AFFIDAVIT, CERTIFICATION OF GOOD FAITH,
 VERIFICATION.**

Roy Grant, Jr., petitioner herein, being first duly sworn on oath, deposes and says that in the above entitled cause he knows the contents of the foregoing Petition to Correct Diminution of Record, said petition incorporated herein by reference and made duly applicable hereto, and that the same is true and correct except as to those matters suggested or on information and belief, and as to those matters he believes them to be true.

It is further certified, hereby, that the said foregoing petition is presented in good faith and not for the purpose of delay.

ROY GRANT, JR.,
Petitioner.

Subscribed and sworn to before me this 2 day of July, 1946.

(SEAL) J. M. SCHERWENKA,
*Notary Public, Milwaukee
County, Wisconsin.*

My Commission expires; April 11, 1948.